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BILL 1

Government Bill

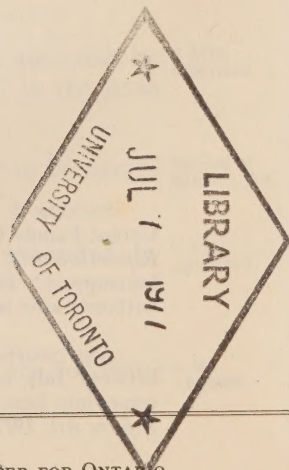
Governmental Publications

1ST SESSION, 31ST LEGISLATURE, ONTARIO
26 ELIZABETH II, 1977

97

**An Act to amend
The Unified Family Court Act, 1976**

THE HON. R. MCMURTRY
Attorney General



TORONTO

PRINTED BY J. C. THATCHER, QUEEN'S PRINTER FOR ONTARIO

EXPLANATORY NOTES

SECTIONS 1 AND 2. The amendments result from the postponement of the passing of *The Family Law Reform Act, 1977* as proposed in Bill 6. Adjustments are needed to permit the Unified Family Court to adjudicate between July 1st and the date that Act comes into force when passed in matters originally designed to be replaced by *The Family Law Reform Act* on July 1st but now postponed. This includes the temporary inclusion in the schedule of existing forms of action and the temporary requirement that judges of the Court be surrogate court judges having jurisdiction respecting custody of children.

SECTION 3. The new provision provides for the enforcement by the Unified Family Court, between July 1st and the date when *The Family Law Reform Act, 1977* comes into force, of previously rendered orders and judgments for support. *The Family Law Reform Act, 1977* would provide similar authority after it takes effect.

Also provision is made for variation by the Unified Family Court, between July 1st and the date when *The Family Law Reform Act, 1977* comes into force, of previously rendered orders for support. *The Family Law Reform Act, 1977* would provide similar authority after it takes effect.

BILL 1

1977

An Act to amend The Unified Family Court Act, 1976

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

- 1.—(1) Subsection 1 of section 3 of *The Unified Family Court Act, 1976*, being chapter 85, is amended by inserting after “Court” in the third line “and a judge of a surrogate court”. s. 3 (1),
amended
- (2) Subsection 2 of the said section 3 is amended by inserting after “Court” in the third line “and a judge of a surrogate court”. s. 3 (2),
amended
- (3) Subsection 3 of the said section 3 is amended by striking out “under the statutory provisions” in the second line. s. 3 (3),
amended
- (4) Subsection 4 of the said section 3 is amended by, s. 3 (4),
amended
 - (a) striking out “or” in the second line and inserting after “division” in the third line “or a judge of a surrogate court”; and
 - (b) striking out “or” in the fourth line and inserting after “division” in the fifth line “or a surrogate court”.
- (5) Subsection 4 of the said section 3 is further amended by striking out “under the statutory provisions” in the sixth line. s. 3 (4),
amended
- (6) Subsections 1, 2 and 4 are repealed on a day to be named by proclamation of the Lieutenant Governor. Repeal of
subss. 1, 2, 4
2. Subsection 1 of section 4 of the said Act is amended by striking out “under the statutory provisions” in the second line and inserting in lieu thereof “in the matters”. s. 4 (1),
amended
- 3.—(1) The said Act is amended by adding thereto the following section: s. 5a,
enacted

Enforcement
of orders
under
R.S.O. 1970,
c. 369, s. 25

5a.—(1) Section 25 of *The Provincial Courts Act* applies, with necessary modifications, to the filing of judgments or orders in the Court and their enforcement, and judgments and orders filed in the Provincial Court (Family Division) of the Judicial District of Hamilton-Wentworth under the said section 25 shall be transferred to and be deemed to be filed in the Court.

Variation
of orders
under
R.S.O. 1970,
c. 128

(2) The jurisdiction of the Court under section 8 of *The Deserted Wives' and Children's Maintenance Act* to rehear applications applies notwithstanding that the original order was made by a judge of the Provincial Court (Family Division) of the Judicial District of Hamilton-Wentworth.

Repeal of
section

(2) This section is repealed on a day to be named by proclamation of the Lieutenant Governor.

s. 23,
amended

4. Section 23 of the said Act is amended by adding thereto the following subsections:

Application
of subs. 1
to proceed-
ings already
commenced

(2) Where a proceeding is commenced in the Provincial Court (Family Division) of the Judicial District of Hamilton-Wentworth before subsection 1 comes into force and no evidence has been heard in the proceeding before subsection 1 comes into force, other than in respect of an interim order, the proceeding shall be deemed to be an application in the Unified Family Court subject to such directions as the court considers appropriate.

Idem

(3) Notwithstanding subsection 1, the Provincial Court (Family Division) of the Judicial District of Hamilton-Wentworth continues to exist for the purpose of completing proceedings commenced in it before this section comes into force and to which subsection 2 does not apply.

Enforcement
of orders

(4) The Court may enforce orders made by the Provincial Court (Family Division) of the Judicial District of Hamilton-Wentworth in place of that court.

s. 24,
re-enacted

5. Section 24 of the said Act is repealed and the following substituted therefor:

Repeal

24. This Act is repealed on the 1st day of July, 1980.

Schedule,
re-enacted

6.—(1) The Schedule to the said Act is repealed and the following substituted therefor:

SCHEDULE

Jurisdiction in respect of actions for alimony and under the following statutory provisions:

SECTION 4. This section provides for the transfer of cases pending in the existing Hamilton Family Court to the new Unified Family Court and for the continued enforcement of its orders.

SECTION 5. The automatic repeal is three years after January 17th, 1977, the date when the organization of the Court began. The amendment moves the date to three years after July 1st, 1977, the date when the Court first will operate as a Court.

SECTION 6. See explanatory note for sections 1 and 2.

<i>Statutes</i>	<i>Provisions</i>
<i>Annulment of Marriages Act (Ontario) (Canada)</i>	All
<i>The Child Welfare Act</i>	Parts II, III and IV
<i>The Children's Boarding Homes Act</i>	Section 10
<i>The Children's Maintenance Act</i>	All
<i>The Deserted Wives' and Children's Maintenance Act</i>	All
<i>Divorce Act (Canada)</i>	All
<i>The Education Act, 1974</i>	Sections 29 and 30
<i>The Infants Act</i>	All
<i>Juvenile Delinquents Act (Canada)</i>	All
<i>The Marriage Act</i>	Sections 9 and 11
<i>The Married Women's Property Act</i>	Section 12
<i>The Matrimonial Causes Act</i>	Sections 1 to 4
<i>The Minors' Protection Act</i>	Section 2
<i>The Parents' Maintenance Act</i>	All
<i>The Partition Act</i> in so far as its application is ancillary to an order under section 12 of <i>The Married Women's Property Act</i>	All
<i>The Reciprocal Enforcement of Maintenance Orders Act</i>	All
<i>The Training Schools Act</i>	Section 9

- (2) On a day to be named by proclamation of the Lieutenant Governor, the Schedule to the said Act, as re-enacted by subsection 1, is repealed and the following substituted therefor:

SCHEDULE

Jurisdiction under the following statutory provisions:

<i>Statutes</i>	<i>Provisions</i>
<i>Annulment of Marriages Act (Ontario) (Canada)</i>	All
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<i>The Children's Boarding Homes Act</i>	Section 10
<i>Divorce Act (Canada)</i>	All
<i>The Education Act, 1974</i>	Sections 29 and 30

	<i>The Family Law Reform Act, 1977</i>	All, except Part V
	<i>The Infants Act</i>	All
	<i>Juvenile Delinquents Act (Canada)</i>	All
	<i>The Marriage Act, 1977</i>	Sections 6 and 9
	<i>The Minors' Protection Act</i>	Section 2
	<i>The Reciprocal Enforcement of Maintenance Orders Act</i>	All
	<i>The Training Schools Act</i>	Section 9
Commence- ment	7.—(1) This Act, except sections 3 and 4, comes into force on the day it receives Royal Assent.	
Idem	(2) Sections 3 and 4 come into force on the 1st day of July, 1977.	
Short title	8. The short title of this Act is <i>The Unified Family Court Amendment Act, 1977</i> .	

An Act to amend
The Unified Family Court Act, 1976

1st Reading

June 27th, 1977

2nd Reading

3rd Reading

THE HON. R. MCMURTRY
Attorney General

(Government Bill)

BILL 1

1ST SESSION, 31ST LEGISLATURE, ONTARIO
26 ELIZABETH II, 1977

**An Act to amend
The Unified Family Court Act, 1976**

THE HON. R. MCMURTRY
Attorney General



TORONTO

PRINTED BY J. C. THATCHER, QUEEN'S PRINTER FOR ONTARIO

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subss. 1, 2, 4
2. Subsection 1 of section 4 of the said Act is amended by striking out “under the statutory provisions” in the second line and inserting in lieu thereof “in the matters”. s. 4 (1),
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Idem

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Schedule,
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6.—(1) The Schedule to the said Act is repealed and the following substituted therefor:

SCHEDULE

Jurisdiction in respect of actions for alimony and under the following statutory provisions:

<i>Statutes</i>	<i>Provisions</i>
<i>Annulment of Marriages Act (Ontario) (Canada)</i>	All
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<i>The Marriage Act</i>	Sections 9 and 11
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<i>The Minors' Protection Act</i>	Section 2
<i>The Parents' Maintenance Act</i>	All
<i>The Partition Act</i> in so far as its application is ancillary to an order under section 12 of <i>The Married Women's Property Act</i>	All
<i>The Reciprocal Enforcement of Maintenance Orders Act</i>	All
<i>The Training Schools Act</i>	Section 9

- (2) On a day to be named by proclamation of the Lieutenant Governor, the Schedule to the said Act, as re-enacted by subsection 1, is repealed and the following substituted therefor:

SCHEDULE

Jurisdiction under the following statutory provisions:

<i>Statutes</i>	<i>Provisions</i>
<i>Annulment of Marriages Act (Ontario) (Canada)</i>	All
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<i>The Infants Act</i>	All
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<i>The Minors' Protection Act</i>	Section 2
<i>The Reciprocal Enforcement of Maintenance Orders Act</i>	All
<i>The Training Schools Act</i>	Section 9

Commence-
ment

7.—(1) This Act, except sections 3 and 4, comes into force on the day it receives Royal Assent.

Idem

(2) Sections 3 and 4 come into force on the 1st day of July, 1977.

Short title

8. The short title of this Act is *The Unified Family Court Amendment Act, 1977*.

An Act to amend
The Unified Family Court Act, 1976

1st Reading

June 27th, 1977

2nd Reading

June 27th, 1977

3rd Reading

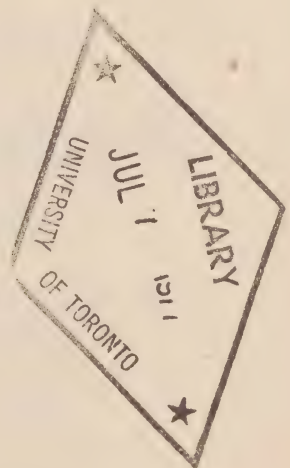
June 28th, 1977

THE HON. R. MCMURTRY
Attorney General

1ST SESSION, 31ST LEGISLATURE, ONTARIO
26 ELIZABETH II, 1977

**An Act to amend
The Environmental Assessment Act, 1975**

THE HON. G. A. KERR
Minister of the Environment



TORONTO

PRINTED BY J. C. THATCHER, QUEEN'S PRINTER FOR ONTARIO

EXPLANATORY NOTE

The amendment adds Part III-A to the Act to provide for the appointment of persons to inquire into such matters related to the purpose of the Act as may be set out in the appointment and to report thereon to the Minister.

Section 24*b* provides that an appointment may be made by the Lieutenant Governor in Council upon the recommendation of the Minister.

Section 24*c* states that the purpose of an inquiry and report under the Part is to provide information and advice to the Minister.

Section 24*d* provides that the conduct of and the procedure to be followed on an inquiry, including at a hearing held in the course of an inquiry, is under the control and direction of the appointee. The section also provides that, except in special circumstances, hearings held in the course of an inquiry shall be open to the public, and the appointee may take into account evidence, information and views expressed at hearings and otherwise.

Section 24*e* requires an appointee to give to any person that the appointee specifies has an interest in the subject-matter of the inquiry an opportunity to give evidence and, where the appointee holds a hearing, to call and examine or to cross-examine witnesses on evidence relevant to the person's interest.

Section 24*f* provides for class representation at a hearing held in the course of an inquiry.

Sections 24*g*, 24*h*, 24*i* and 24*j* relate to the receipt of evidence, information and views, oaths and affirmations, and protection of witnesses against self-crimination.

Sections 24*k* and 24*l* authorize an appointee to summon witnesses and to state a case to the Divisional Court to punish a witness for contempt.

Section 24*m* entitles the Minister, by counsel or otherwise, to take part in a hearing held in the course of an inquiry.

Section 24*n* provides for the stating of a case for determination by the Divisional Court where an appointment or the authority of an appointee is questioned. Subsection 4 of the section authorizes the appointee to proceed with any aspect of the inquiry not in issue in the stated case.

Section 24*o* provides for the release of documents and the copying of documents produced in evidence to an appointee.

Section 24*p* authorizes an individual appointee, where two or more persons are appointed to conduct an inquiry, to administer oaths and affirmations, to summon witnesses, and to release documents and to copy or permit the copying of documents produced in evidence.

Section 24*q* states that a report under the Part is not binding with respect to any decision or determination under the Act.

Section 24*r* provides for public inspection of reports made under the Part.

An Act to amend The Environmental Assessment Act, 1975

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. *The Environmental Assessment Act, 1975*, being chapter 69, is amended by adding thereto the following Part: Part III-A,
(ss. 24a-24r),
enacted

PART III-A

INQUIRIES

24a. In this Part,

Interpre-
tation

- (a) "appointee" means the person or persons appointed to conduct an inquiry;
- (b) "hearing" means a hearing held in the course of an inquiry;
- (c) "inquiry" means an inquiry under this Part.

24b. The Lieutenant Governor in Council, on the recommendation of the Minister, may appoint one or more persons to inquire into such matters relating to the purpose of this Act as may be set out in the appointment and to report thereon to the Minister. Appointment
of person
or persons to
inquire and
report

24c. The purpose of an inquiry and report under this Part is to provide information and advice to the Minister. Purpose of
inquiry and
report

24d.—(1) The conduct of and the procedure to be followed on an inquiry, including at a hearing, is under the control and direction of the appointee. Procedure

(2) An appointee may take into account evidence, information and views expressed at hearings and otherwise. Receiving of
views

Public
hearings

(3) All hearings shall be open to the public except where the appointee is of the opinion that matters may be disclosed at a hearing that are of such a nature, having regard to the circumstances, that the desirability of avoiding disclosure thereof in the interest of any person affected or in the public interest outweighs the desirability of adhering to the principle that hearings be open to the public, in which case, the appointee may hold the hearing concerning any such matters *in camera*.

Rights of
interested
persons

24e. An appointee shall give to any person who the appointee, in his opinion, having regard to the purpose of this Act, specifies has an interest in the subject-matter of the inquiry an opportunity during the inquiry to give evidence and, where the appointee holds a hearing, to call and examine or to cross-examine witnesses personally or by the person's counsel on evidence relevant to the person's interest.

Class
repre-
sentation

24f. Where the appointee holds a hearing, the appointee may designate from among a class of persons having, in the opinion of the appointee, a common interest in the subject-matter of the inquiry, a person to represent the class in the hearing, but any other member of the class for which the appointment was made, with the consent of the appointee, may take part in the inquiry notwithstanding the designation.

Privilege

24g. Nothing is admissible in evidence at a hearing that would be inadmissible in a court by reason of any privilege under the law of evidence.

Unsworn
evidence

24h. An appointee may accept, at a hearing or otherwise, evidence, information and views not given under oath or affirmation.

Oaths
and
affirmations

24i. An appointee has power to administer oaths and affirmations and may require evidence to be given under oath or affirmation.

Protection
of witnesses

24j.—(1) A witness at a hearing shall be deemed to have objected to answer any question asked him upon the ground that his answer may tend to criminate him or may tend to establish the liability of the witness to civil proceedings at the instance of the Crown or of any person, and no answer given by a witness at a hearing shall be used or be receivable in evidence against the witness in any trial or other proceedings against the witness thereafter taking place, other than a prosecution for perjury in giving such evidence.

(2) Where it appears at any stage of a hearing that the evidence that a witness is about to give may tend to criminate him or may tend to establish his liability to a civil proceeding at the instance of the Crown or of any person, the appointee shall ensure that the witness is informed of the protection against self-crimination under section 5 of the *Canada Evidence Act*.

Right to
object
under
R.S.C. 1970,
c. E-10

24k.—(1) An appointee may require any person by summons, in the form prescribed by the regulations,

Power to
summon
witnesses

- (a) to give evidence on oath or affirmation at a hearing; or
- (b) to produce in evidence at a hearing such documents and things as the appointee may specify,

relevant to the subject-matter of the inquiry and not inadmissible in evidence at a hearing under section 24g.

(2) A summons issued under subsection 1 shall be served personally on the person summoned, and the person shall be paid at the time of service the like fees and allowances for attendance as a witness before the appointee as are paid for the attendance of a witness summoned to attend before the Supreme Court.

Form and
service
of summons

24l. Where any person without lawful excuse,

Stated case
for failure
to attend
hearing, etc.

- (a) on being duly summoned under subsection 1 of section 24k as a witness at a hearing, makes default in attending at the hearing; or
- (b) being in attendance as a witness at a hearing refuses to take an oath or to make an affirmation legally required by the appointee to be taken or made, or to produce any document or thing in his power or control legally required by the appointee to be produced to the appointee, or to answer any question to which the appointee may legally require an answer; or
- (c) does any other thing that would, if the appointee had been a court of law having power to commit for contempt, have been in contempt of that court,

the appointee may state a case to the Divisional Court setting out the facts and that court may, on the application of the appointee or of the Minister, inquire into the matter and, after hearing any witnesses who may be produced against or on behalf of that person and after

hearing any statement that may be offered in defence, punish or take steps for the punishment of that person in like manner as if that person had been guilty of contempt of the court.

Minister
entitled
to be heard

24m. The Minister is entitled by counsel or otherwise to take part in a hearing.

Stated case

24n.—(1) Where the appointment of an appointee under this Part or the authority of an appointee to do any act or thing proposed to be done or done by the appointee in the course of an inquiry is called into question by a person affected, the appointee may of his own motion or upon the request of the person state a case in writing to the Divisional Court setting forth the material facts and the grounds upon which the appointment or the authority of the appointee to do the act or thing are questioned.

Order
directing
stated case

(2) If an appointee refuses to state a case under subsection 1, the person requesting it may apply to the Divisional Court for an order directing the appointee to state such a case.

Court to
hear and
determine
stated case

(3) Where a case is stated under subsection 1 or 2, the Divisional Court shall hear and determine in a summary manner the question raised.

Proceedings
stayed

(4) Pending the decision of the Divisional Court on a case stated under subsection 1 or 2, no further proceedings shall be taken by the appointee with respect to the subject-matter of the stated case but he may continue the inquiry into matters not in issue in the stated case.

Release of
documents

24o.—(1) Documents and things produced in evidence to an appointee shall, upon the request of the person who produced them or the person entitled thereto, be released to the person by the appointee within a reasonable time.

Copies of
documents

(2) Where a document has been produced in evidence before an appointee, the appointee may, or the person producing it may, with the leave of the appointee, cause the document to be photocopied and the photocopy may be filed in evidence in the place of the document produced, and a document purporting to be a copy of a document produced in evidence, certified to be a true copy thereof by the appointee, is admissible in evidence in proceedings in which the document produced is admissible, as evidence of the document produced.

24*p*. Where two or more persons are appointed to conduct an inquiry, any one of them may exercise the powers conferred by section 24*i*, 24*k* or 24*o*. Powers of each of two or more appointees

24*q*. A report under this Part is not binding with respect to any decision or determination under this Act. Effect of report

24*r*. On the request of any person, the Minister shall make available for inspection by the person any report made pursuant to this Part as soon as practicable after the receipt of the report. Inspection of report

2. This Act comes into force on the day it receives Royal Assent. Commence-ment
3. The short title of this Act is *The Environmental Assessment Amendment Act, 1977*. Short title

An Act to amend
The Environmental Assessment Act, 1975

1st Reading

June 27th, 1977

2nd Reading

3rd Reading

THE HON. G. A. KERR
Minister of the Environment

(Government Bill)

BILL 3

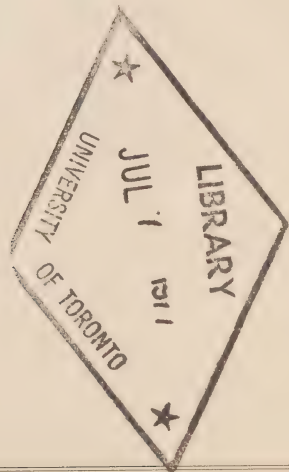
Government Bill

1ST SESSION, 31ST LEGISLATURE, ONTARIO
26 ELIZABETH II, 1977

Government
Publications

**An Act to require The Essex County Board of Education to
provide a French-language Secondary School**

THE HON. T. L. WELLS
Minister of Education



TORONTO

PRINTED BY J. C. THATCHER, QUEEN'S PRINTER FOR ONTARIO

EXPLANATORY NOTE

The Bill requires The Essex County Board of Education to proceed with the selection of a site for and the planning and construction of a French-language secondary school designed to accommodate 750 French-speaking secondary school pupils and to thereafter conduct and maintain the school as a French-language secondary school in accordance with *The Education Act, 1974* and the regulations made thereunder.

Where the Board fails to proceed in the manner directed in the Bill, provision is made for the Minister to do all things necessary to cause the school to be constructed and to recover from the Board the expenses in so doing, beyond the amount of any grants payable to the Board by the Minister in respect of the construction of the school.

BILL 3**1977**

**An Act to require The Essex County Board
of Education to provide a French-language
Secondary School**

WHEREAS the French-language advisory committee of Preamble
The Essex County Board of Education has, since 1969,
consistently recommended that a French-language secondary
school be provided; and whereas, upon such recommendation
having been rejected by the Board in the year 1974, the
Languages of Instruction Commission of Ontario recom-
mended that the Board provide such a school; and whereas
The Essex County Board of Education, having initially
rejected the recommendation of the Commission, subse-
quently agreed in April, 1975 to proceed with construction
of a French-language secondary school, but on and after
the 23rd day of February, 1976 ceased to proceed therewith;
and whereas a mediator appointed by order in council No.
1452/76 recommended in February, 1977 that the Board
build such school, but the Board, on or about the 8th day
of March, 1977, decided not to build the school and it is
now apparent that no such school will be provided at this
time; and whereas there are sufficient French-speaking
secondary school pupils resident in or adjacent to the area
of jurisdiction of The Essex County Board of Education
who have elected to be taught in the French language to
warrant the provision of a French-language secondary
school; and whereas the public interest, and in particular
the interests of such French-speaking secondary school
pupils, requires that such a school be constructed;

Therefore, Her Majesty, by and with the advice and
consent of the Legislative Assembly of the Province of
Ontario, enacts as follows:

1. In this Act,

Interpre-
tation

(a) "Board" means The Essex County Board of Edu-
cation;

- (b) "Deputy Minister" means the Deputy Minister of Education;
- (c) "Minister" means the Minister of Education;
- (d) "Ministry" means the Ministry of Education;
- (e) "School" means the French-language secondary school required to be constructed by this Act.

Deemed
resolution
of Board

2. On the day upon which this Act comes into force, the Board is deemed to have passed a resolution to construct a building suitable for a School to accommodate seven hundred and fifty French-speaking secondary school pupils.

Board to
construct
School

3. Within thirty days after the coming into force of this Act, the Board shall, at a special meeting of the Board,

- (a) select a site for the School that is not, on the day this Act comes into force, the location of an existing school; and
- (b) appoint an architect and any other persons required for the purpose of building the School,

and following such meeting, the Board shall forthwith proceed with the planning and design of the building, obtain all approvals required for construction of the School and, upon receipt of such approvals, proceed in accordance with the policies of the Board to tender and contract for the construction of the School.

Notice
by
Minister

4.—(1) Where, in the opinion of the Minister, the Board fails to take any action or proceeding that it is required to take under section 3, the Minister may, by notice in writing to the Board, specify the action or proceeding that the Board has failed to take and direct the Board to take such action or proceeding within such time, being not less than ten days after the notice is sent, as the notice specifies.

Minister
may cause
School to be
constructed

(2) Where the Minister has sent notice to the Board under subsection 1 and the Board fails to take the action or proceeding specified in the notice within the time limited therefor, the Minister may thereupon cause all such things to be done as are necessary to construct the School including, but not limited to, the selection of a site, the appointment of an architect, the planning and design of the building, the obtaining of all necessary approvals and the tendering and contracting for the construction of the School.

(3) Where the site selected by the Minister under subsection 2 is owned by the Board, the Board shall be deemed to have given possession of the site to the Crown in right of Ontario for the purpose of the construction of the School.

Possession of site deemed given to Crown

(4) Where the site selected under subsection 2 is not owned by the Board or by the Crown in right of Ontario, the site shall be acquired under *The Ministry of Government Services Act, 1973*.

Acquisition of site under 1973, c. 2

(5) Where construction of the School is not carried out by the Board, the ownership of the School, and of the site where the site is acquired under subsection 4, shall, upon completion of the School as certified by the architect, vest in the Board.

Building and site vested in Board

(6) The expenses incurred by the Minister in taking any action or proceeding that the Minister is authorized to take under subsection 2 that are in excess of any moneys payable to the Board by way of grant by the Minister in respect of the construction of the School are a debt due to the Crown by the Board and may be recovered with costs, by action in a court of competent jurisdiction.

Expenses recoverable from Board

(7) The Minister, in exercising the powers conferred on him under subsection 2, may make use of the services and facilities of any ministry, board, commission or agency of the Government of Ontario.

Use of services and facilities of ministries, etc.

(8) The Minister may in writing delegate to the Deputy Minister or to any officer or officers of the Ministry, subject to such limitations, restrictions, conditions or requirements as the Minister sets out in his delegation, any of the powers conferred on the Minister under subsection 2.

Delegation of Minister's powers

5. The School that is constructed under this Act shall be conducted and maintained by the Board as a French-language secondary school in accordance with *The Education Act, 1974* and the regulations made thereunder.

Conduct of School 1974, c. 109

6. This Act comes into force on the day it receives Royal Assent.

Commencement

7. The short title of this Act is *The Essex County French-language Secondary School Act, 1977*.

Short title

An Act to require The Essex County
Board of Education to provide a
French-language Secondary School

1st Reading

June 27th, 1977

2nd Reading

3rd Reading

THE HON. T. L. WELLS
Minister of Education

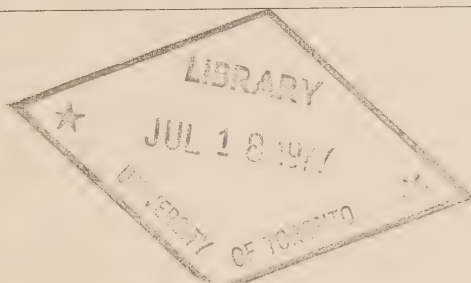
(Government Bill)

BILL 3

1ST SESSION, 31ST LEGISLATURE, ONTARIO
26 ELIZABETH II, 1977

**An Act to require The Essex County Board of Education to
provide a French-language Secondary School**

THE HON. T. L. WELLS
Minister of Education



TORONTO

PRINTED BY J. C. THATCHER, QUEEN'S PRINTER FOR ONTARIO

BILL 3**1977**

**An Act to require The Essex County Board
of Education to provide a French-language
Secondary School**

WHEREAS the French-language advisory committee of ^{Preamble}
The Essex County Board of Education has, since 1969,
consistently recommended that a French-language secondary
school be provided; and whereas, upon such recommendation
having been rejected by the Board in the year 1974, the
Languages of Instruction Commission of Ontario recom-
mended that the Board provide such a school; and whereas
The Essex County Board of Education, having initially
rejected the recommendation of the Commission, subse-
quently agreed in April, 1975 to proceed with construction
of a French-language secondary school, but on and after
the 23rd day of February, 1976 ceased to proceed therewith;
and whereas a mediator appointed by order in council No.
1452/76 recommended in February, 1977 that the Board
build such school, but the Board, on or about the 8th day
of March, 1977, decided not to build the school and it is
now apparent that no such school will be provided at this
time; and whereas there are sufficient French-speaking
secondary school pupils resident in or adjacent to the area
of jurisdiction of The Essex County Board of Education
who have elected to be taught in the French language to
warrant the provision of a French-language secondary
school; and whereas the public interest, and in particular
the interests of such French-speaking secondary school
pupils, requires that such a school be constructed;

Therefore, Her Majesty, by and with the advice and
consent of the Legislative Assembly of the Province of
Ontario, enacts as follows:

1. In this Act,

Interpre-
tation

(a) "Board" means The Essex County Board of Edu-
cation;

- (b) "Deputy Minister" means the Deputy Minister of Education;
- (c) "Minister" means the Minister of Education;
- (d) "Ministry" means the Ministry of Education;
- (e) "School" means the French-language secondary school required to be constructed by this Act.

Deemed
resolution
of Board

2. On the day upon which this Act comes into force, the Board is deemed to have passed a resolution to construct a building suitable for a School to accommodate seven hundred and fifty French-speaking secondary school pupils.

Board to
construct
School

3. Within thirty days after the coming into force of this Act, the Board shall, at a special meeting of the Board,

- (a) select a site for the School that is not, on the day this Act comes into force, the location of an existing school; and
- (b) appoint an architect and any other persons required for the purpose of building the School,

and following such meeting, the Board shall forthwith proceed with the planning and design of the building, obtain all approvals required for construction of the School and, upon receipt of such approvals, proceed in accordance with the policies of the Board to tender and contract for the construction of the School.

Notice
by
Minister

4.—(1) Where, in the opinion of the Minister, the Board fails to take any action or proceeding that it is required to take under section 3, the Minister may, by notice in writing to the Board, specify the action or proceeding that the Board has failed to take and direct the Board to take such action or proceeding within such time, being not less than ten days after the notice is sent, as the notice specifies.

Minister
may cause
School to be
constructed

(2) Where the Minister has sent notice to the Board under subsection 1 and the Board fails to take the action or proceeding specified in the notice within the time limited therefor, the Minister may thereupon cause all such things to be done as are necessary to construct the School including, but not limited to, the selection of a site, the appointment of an architect, the planning and design of the building, the obtaining of all necessary approvals and the tendering and contracting for the construction of the School.

(3) Where the site selected by the Minister under subsection 2 is owned by the Board, the Board shall be deemed to have given possession of the site to the Crown in right of Ontario for the purpose of the construction of the School.

Possession of site deemed given to Crown

(4) Where the site selected under subsection 2 is not owned by the Board or by the Crown in right of Ontario, the site shall be acquired under *The Ministry of Government Services Act, 1973*.

Acquisition of site under 1973, c. 2

(5) Where construction of the School is not carried out by the Board, the ownership of the School, and of the site where the site is acquired under subsection 4, shall, upon completion of the School as certified by the architect, vest in the Board.

Building and site vested in Board

(6) The expenses incurred by the Minister in taking any action or proceeding that the Minister is authorized to take under subsection 2 that are in excess of any moneys payable to the Board by way of grant by the Minister in respect of the construction of the School are a debt due to the Crown by the Board and may be recovered with costs, by action in a court of competent jurisdiction.

Expenses recoverable from Board

(7) The Minister, in exercising the powers conferred on him under subsection 2, may make use of the services and facilities of any ministry, board, commission or agency of the Government of Ontario.

Use of services and facilities of ministries, etc.

(8) The Minister may in writing delegate to the Deputy Minister or to any officer or officers of the Ministry, subject to such limitations, restrictions, conditions or requirements as the Minister sets out in his delegation, any of the powers conferred on the Minister under subsection 2.

Delegation of Minister's powers

5. The School that is constructed under this Act shall be conducted and maintained by the Board as a French-language secondary school in accordance with *The Education Act, 1974* and the regulations made thereunder.

Conduct of School 1974, c. 109

6. This Act comes into force on the day it receives Royal Assent.

Commencement

7. The short title of this Act is *The Essex County French-language Secondary School Act, 1977*.

Short title

An Act to require The Essex County
Board of Education to provide a
French-language Secondary School

1st Reading

June 27th, 1977

2nd Reading

July 11th, 1977

3rd Reading

July 11th, 1977

THE HON. T. L. WELLS
Minister of Education

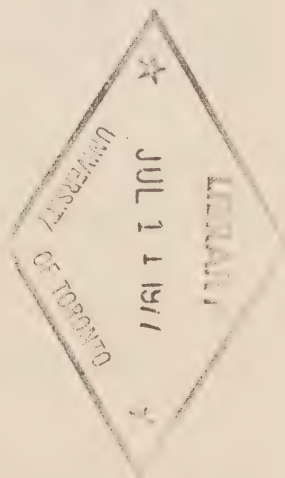
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1ST SESSION, 31ST LEGISLATURE, ONTARIO
26 ELIZABETH II, 1977

**Government
Publications**

**An Act to provide for Successor Rights on the Transfer
of an Undertaking to or from the Crown**

THE HON. J. A. C. AULD
Chairman, Management Board of Cabinet



EXPLANATORY NOTE

The Bill preserves the representation and bargaining rights of organizations representing employees employed in undertakings transferred from the Crown to other employers and in undertakings transferred from other employers to the Crown.

The Bill provides for the determination of questions that may arise on such a transfer. Where the transfer is to an employer other than the Crown, the determinations are to be made by the Ontario Labour Relations Board. Where the transfer is to the Crown, the determinations are to be made by the Ontario Public Service Labour Relations Tribunal. Where a trade union or council of trade unions is the certified bargaining agent in respect of an undertaking transferred to the Crown, the trade union or council of trade unions is required to qualify as an employee organization within the meaning of *The Crown Employees Collective Bargaining Act, 1972* and where an employee organization has representation rights in respect of an undertaking transferred from the Crown to another employer, the employee organization is required to qualify as a trade union or council of trade unions under *The Labour Relations Act*.

BILL 4

1977

An Act to provide for Successor Rights on the Transfer of an Undertaking to or from the Crown

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1.—(1) In this Act,

Interpre-
tation

- (a) “bargaining agent” means an employee organization that has representation rights under *The Crown Employees Collective Bargaining Act, 1972* ^{1972, c. 67} or a trade union or council of trade unions that is certified as a bargaining agent under *The Labour Relations Act*; ^{R.S.O. 1970, c. 232}
- (b) “Board” means the Ontario Labour Relations Board;
- (c) “collective agreement” means an agreement in writing between the Crown or an employer and an employee organization, trade union or council of trade unions covering terms and conditions of employment;
- (d) “Crown” means Her Majesty in right of Ontario;
- (e) “employer” means an employer other than the Crown;
- (f) “transfer” means a conveyance, disposition or sale;
- (g) “Tribunal” means the Ontario Public Service Labour Relations Tribunal;
- (h) “undertaking” means a business, enterprise, institution, program, project, work or a part of any of them.

Idem (2) For the purposes of an application or other proceeding before the Tribunal under this Act, "employee" has the same meaning as in *The Crown Employees Collective Bargaining Act, 1972*.

Where
collective
agreement
binding on
employer

2.—(1) Where an undertaking is transferred from the Crown to an employer and a bargaining agent has a collective agreement with the Crown in respect of employees employed in the undertaking, the employer is bound by the collective agreement as if a party to the collective agreement until the Board declares otherwise.

Where
application
before
Tribunal

(2) Where an undertaking is transferred from the Crown to an employer while an application is before the Tribunal for representation rights in respect of employees employed in the undertaking or for a declaration that an employee organization no longer represents employees employed in the undertaking, the application shall be transferred to the Board and the employer is the employer for the purposes of the application as if named as the employer in the application until the Board declares otherwise.

Rights of
bargaining
agent

(3) Where an undertaking is transferred from the Crown to an employer and a bargaining agent has been granted representation rights under any Act and has given or is entitled to give written notice of desire to bargain to make or renew a collective agreement in respect of employees employed in the undertaking, the bargaining agent continues, until the Board declares otherwise, to be the bargaining agent in respect of the employees and is entitled to give to the employer written notice of desire to bargain to make or renew, with or without modifications, a collective agreement, as the case requires.

Where
collective
agreement
binding
on Crown

3.—(1) Where an undertaking is transferred from an employer to the Crown and a bargaining agent has a collective agreement with the employer in respect of employees employed in the undertaking, the Crown is bound by the collective agreement as if a party to the collective agreement until the Tribunal declares otherwise.

Where
application
before Board

(2) Where an undertaking is transferred from an employer to the Crown while an application is before the Board for certification or termination of bargaining rights in respect of employees employed in the undertaking, the application shall be transferred to the Tribunal and the Crown is the employer for the purposes of the application as if named as the employer in the application until the Tribunal declares otherwise.

(3) Where an undertaking is transferred from an employer to the Crown and a trade union or council of trade unions has been certified by the Board as bargaining agent or has given or is entitled to give written notice of desire to bargain to make or renew a collective agreement in respect of employees employed in the undertaking, the bargaining agent continues, until the Tribunal declares otherwise, to be the bargaining agent in respect of the employees and is entitled to give to the body representing the Crown or to the Crown, as the case requires, written notice of desire to bargain to make or renew, with or without modifications, a collective agreement, as the case requires.

4.—(1) Where an undertaking was transferred from the Crown to an employer or from an employer to the Crown and an employee organization, trade union or council of trade unions was the bargaining agent in respect of employees employed in the undertaking immediately before the transfer and,

- (a) a question arises as to what constitutes a unit of employees that is appropriate for collective bargaining purposes in respect of the undertaking; or
- (b) any person, employee organization, trade union or council of trade unions claims that by virtue of section 2 or 3, a conflict exists as to the bargaining rights of the employee organization, trade union or council of trade unions,

any person, employee organization, trade union or council of trade unions concerned may apply to the Board, in the case of the transfer of the undertaking to an employer, or to the Tribunal, in the case of the transfer of the undertaking to the Crown, and the Board or the Tribunal, as the case requires,

- (c) may determine the composition of the unit of employees referred to in clause *a*;
- (d) may amend, to such extent as the Tribunal or the Board considers necessary,
 - (i) any bargaining unit in any certificate issued to any trade union or council of trade unions,
 - (ii) any bargaining unit defined in any collective agreement,

- (iii) any unit of employees determined by the Tribunal to be appropriate for collective bargaining purposes in respect of the undertaking, or
- (iv) any unit of employees that is designated by the Lieutenant Governor in Council as an appropriate bargaining unit for collective bargaining purposes in respect of the undertaking.

Idem

(2) Where an undertaking is transferred from the Crown to an employer or from an employer to the Crown, any person, employee organization, trade union or council of trade unions may apply to the Board, in the case of the transfer of the undertaking to an employer, or to the Tribunal, in the case of the transfer of the undertaking to the Crown,

- (a) within sixty days after the transfer of the undertaking; or
- (b) within sixty days after written notice is given by the employee organization, trade union or council of trade unions of desire to bargain to make or renew, with or without modifications, a collective agreement,

and the Board or the Tribunal, as the case requires, may terminate the bargaining rights of the employee organization, trade union or council of trade unions bound by a collective agreement in respect of employees employed in the undertaking or that has given notice, as the case may be, if in the opinion of the Board or the Tribunal, the transferee of the undertaking has changed the character of the undertaking so that it is substantially different from the undertaking as it was carried on immediately before the transfer.

Where
employees
intermingled

5.—(1) Notwithstanding section 2, where an undertaking is transferred from the Crown to an employer who intermingles the employees employed in the undertaking immediately before the transfer with employees employed in one or more other undertakings carried on by the employer or an undertaking is transferred from an employer to the Crown and employees employed in the undertaking immediately before the transfer are intermingled with employees employed in other undertakings of the Crown and an employee organization, trade union or council of trade unions that is the bargaining agent in respect of employees

employed in any of the undertakings applies to the Board, in the case of the transfer of the undertaking to an employer, or to the Tribunal, in the case of the transfer of the undertaking to the Crown, the Board or the Tribunal, as the case requires,

- (a) may declare that the employer or the Crown, as the case may be, is no longer bound by the collective agreement referred to in section 2 or 3;
- (b) may determine whether the employees concerned constitute one or more appropriate bargaining units;
- (c) may declare which employee organization, trade union or council of trade unions shall be the bargaining agent in respect of each such bargaining unit; and
- (d) may amend, to such extent as the Board or the Tribunal considers necessary,
 - (i) any certificate issued to any trade union or council of trade unions,
 - (ii) any bargaining unit defined in any collective agreement,
 - (iii) any unit of employees determined by the Tribunal to be appropriate for collective bargaining purposes in respect of any of the undertakings, or
 - (iv) any unit of employees that is designated by the Lieutenant Governor in Council as an appropriate bargaining unit for collective bargaining purposes in respect of any of the undertakings.

(2) Where an employee organization, trade union or council of trade unions is declared to be a bargaining agent under subsection 1 and it is not already bound by a collective agreement with the successor employer in respect of employees employed in the undertaking that was transferred, the employee organization, trade union or council of trade unions is entitled to give to the successor employer written notice of desire to bargain to make or renew, with or without modifications, a collective agreement.

6.—(1) Notwithstanding any other provision of this Act,

- (a) a trade union or council of trade unions shall not exercise representation rights or act as bargaining agent

Where
bargaining
agent
ascertained

Compliance
with
requirements
for
bargaining
agent

1972, c. 67,

agent in respect of employees employed in an undertaking transferred from an employer to the Crown unless the trade union or council of trade unions qualifies as an employee organization under *The Crown Employees Collective Bargaining Act, 1972*; and

R.S.O. 1970,
c. 232

(b) an employee organization shall not exercise representation rights or act as bargaining agent in respect of employees employed in an undertaking transferred from the Crown to an employer unless the employee organization qualifies as a trade union or council of trade unions under *The Labour Relations Act*.

Application
of
R.S.O. 1970,
c. 232;
1972, c. 67

(2) Except as otherwise provided in this Act, where an undertaking is transferred from the Crown to an employer, *The Labour Relations Act* applies to a bargaining agent that has representation rights in respect of the employees employed in the undertaking and to the employees and where an undertaking is transferred from an employer to the Crown, *The Crown Employees Collective Bargaining Act, 1972* applies to a bargaining agent that is certified as a bargaining agent in respect of the employees employed in the undertaking and to the employees.

Powers of
Board or
Tribunal
before
disposing of
application

7. Before disposing of an application under this Act, the Board or the Tribunal, as the case may be, may require the production of such evidence and the doing of such things, or may hold such representation votes, as it considers appropriate.

Where Crown
or employer
not
required to
bargain

8. Where an application is made under this Act, the Crown or the employer, as the case may be, is not required, notwithstanding that a notice has been given by an employee organization, trade union or council of trade unions to bargain with the employee organization, trade union or council of trade unions, as the case may be, concerning the employees to whom the application relates until the Board or the Tribunal, as the case requires, has disposed of the application and has declared which employee organization, trade union or council of trade unions, if any, has the right to bargain with the Crown or the employer, as the case may be, on behalf of the employees concerned in the application.

Effect of
notice or
declaration

9. For the purposes of *The Crown Employees Collective Bargaining Act, 1972* and *The Labour Relations Act*, notice given under this Act of desire to bargain, to make or renew, with or without modifications, a collective agreement or a

declaration by the Board or the Tribunal that an employee organization, trade union or council of trade unions is the bargaining agent in respect of the employees in a bargaining unit has the same effect as the granting of representation rights or certification as bargaining agent.

10.—(1) Where, on an application before the Board under this Act, a question arises as to whether an undertaking has been transferred from the Crown to an employer, the Board shall determine the question and its decision is final and conclusive for the purposes of this Act. Power to determine whether transfer

(2) Where, on an application before the Tribunal under this Act, a question arises as to whether an undertaking has been transferred from an employer to the Crown, the Tribunal shall determine the question and its decision is final and conclusive for the purposes of this Act. Idem

(3) Where, on an application under this Act, an employee organization, trade union or council of trade unions alleges that an undertaking was transferred from the Crown to an employer or from an employer to the Crown, the respondents to the application shall adduce at the hearing all facts within their knowledge that are material to the allegation. Duty of respondent

11. This Act shall be deemed to have come into force on the 31st day of March, 1977. Commencement

12. The short title of this Act is *The Successor Rights (Crown Transfers) Act, 1977*. Short title

An Act to provide for Successor Rights on
the Transfer of an Undertaking to or from
the Crown

1st Reading

June 27th, 1977

2nd Reading

3rd Reading

THE HON. J. A. C. AULD
Chairman, Management Board
of Cabinet

(Government Bill)

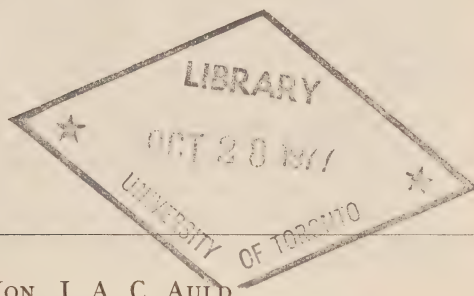
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BILL 4

Government Bill

1ST SESSION, 31ST LEGISLATURE, ONTARIO
26 ELIZABETH II, 1977

**An Act to provide for Successor Rights on the Transfer
of an Undertaking to or from the Crown**



THE HON. J. A. C. AULD
Chairman, Management Board of Cabinet

(Reprinted as amended by the Committee of the Whole House)

TORONTO

PRINTED BY J. C. THATCHER, QUEEN'S PRINTER FOR ONTARIO

EXPLANATORY NOTE

The Bill preserves the representation and bargaining rights of organizations representing employees employed in undertakings transferred from the Crown to other employers and in undertakings transferred from other employers to the Crown.

The Bill provides for the determination of questions that may arise on such a transfer. Where the transfer is to an employer other than the Crown, the determinations are to be made by the Ontario Labour Relations Board. Where the transfer is to the Crown, the determinations are to be made by the Ontario Public Service Labour Relations Tribunal. Where a trade union or council of trade unions is the certified bargaining agent in respect of an undertaking transferred to the Crown, the trade union or council of trade unions is required to qualify as an employee organization within the meaning of *The Crown Employees Collective Bargaining Act, 1972* and where an employee organization has representation rights in respect of an undertaking transferred from the Crown to another employer, the employee organization is required to qualify as a trade union or council of trade unions under *The Labour Relations Act*.

BILL 4

1977

An Act to provide for Successor Rights on the Transfer of an Undertaking to or from the Crown

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1.—(1) In this Act,

Interpre-
tation

- (a) “bargaining agent” means an employee organization that has representation rights under *The Crown Employees Collective Bargaining Act, 1972* ^{1972, c. 67} or a trade union or council of trade unions that is certified as a bargaining agent under *The Labour Relations Act* ^{R.S.O. 1970, c. 232};
- (b) “Board” means the Ontario Labour Relations Board;
- (c) “collective agreement” means an agreement in writing between the Crown or an employer and an employee organization, trade union or council of trade unions covering terms and conditions of employment;
- (d) “Crown” means Her Majesty in right of Ontario;
- (e) “employer” means an employer other than the Crown;
- (f) “transfer” means a conveyance, disposition or sale;
- (g) “Tribunal” means the Ontario Public Service Labour Relations Tribunal;
- (h) “undertaking” means a business, enterprise, institution, program, project, work or a part of any of them.

Idem

(2) For the purposes of an application or other proceeding before the Tribunal under this Act, "employee" has the same meaning as in *The Crown Employees Collective Bargaining Act, 1972*.

Where
collective
agreement
binding on
employer

2.—(1) Where an undertaking is transferred from the Crown to an employer and a bargaining agent has a collective agreement with the Crown in respect of employees employed in the undertaking, the employer is bound by the collective agreement as if a party to the collective agreement until the Board declares otherwise.

Where
application
before
Tribunal

(2) Where an undertaking is transferred from the Crown to an employer while an application is before the Tribunal for representation rights in respect of employees employed in the undertaking or for a declaration that an employee organization no longer represents employees employed in the undertaking, the application shall be transferred to the Board and the employer is the employer for the purposes of the application as if named as the employer in the application until the Board declares otherwise.

Rights of
bargaining
agent

(3) Where an undertaking is transferred from the Crown to an employer and a bargaining agent has been granted representation rights under any Act and has given or is entitled to give written notice of desire to bargain to make or renew a collective agreement in respect of employees employed in the undertaking, the bargaining agent continues, until the Board declares otherwise, to be the bargaining agent in respect of the employees and is entitled to give to the employer written notice of desire to bargain to make or renew, with or without modifications, a collective agreement, as the case requires.

Where
collective
agreement
binding
on Crown

3.—(1) Where an undertaking is transferred from an employer to the Crown and a bargaining agent has a collective agreement with the employer in respect of employees employed in the undertaking, the Crown is bound by the collective agreement as if a party to the collective agreement until the Tribunal declares otherwise.

Where
application
before Board

(2) Where an undertaking is transferred from an employer to the Crown while an application is before the Board for certification or termination of bargaining rights in respect of employees employed in the undertaking, the application shall be transferred to the Tribunal and the Crown is the employer for the purposes of the application as if named as the employer in the application until the Tribunal declares otherwise.

(3) Where an undertaking is transferred from an employer to the Crown and a trade union or council of trade unions has been certified by the Board as bargaining agent or has given or is entitled to give written notice of desire to bargain to make or renew a collective agreement in respect of employees employed in the undertaking, the bargaining agent continues, until the Tribunal declares otherwise, to be the bargaining agent in respect of the employees and is entitled to give to the body representing the Crown or to the Crown, as the case requires, written notice of desire to bargain to make or renew, with or without modifications, a collective agreement, as the case requires.

4.—(1) Where an undertaking was transferred from the Crown to an employer or from an employer to the Crown and an employee organization, trade union or council of trade unions was the bargaining agent in respect of employees employed in the undertaking immediately before the transfer and,

- (a) a question arises as to what constitutes a unit of employees that is appropriate for collective bargaining purposes in respect of the undertaking; or
- (b) any person, employee organization, trade union or council of trade unions claims that by virtue of section 2 or 3, a conflict exists as to the bargaining rights of the employee organization, trade union or council of trade unions,

any person, employee organization, trade union or council of trade unions concerned may apply to the Board, in the case of the transfer of the undertaking to an employer, or to the Tribunal, in the case of the transfer of the undertaking to the Crown, and the Board or the Tribunal, as the case requires,

- (c) may determine the composition of the unit of employees referred to in clause *a*;
- (d) may amend, to such extent as the Tribunal or the Board considers necessary,
 - (i) any bargaining unit in any certificate issued to any trade union or council of trade unions,
 - (ii) any bargaining unit defined in any collective agreement,

- (iii) any unit of employees determined by the Tribunal to be appropriate for collective bargaining purposes in respect of the undertaking, or
- (iv) any unit of employees that is designated by the Lieutenant Governor in Council as an appropriate bargaining unit for collective bargaining purposes in respect of the undertaking.

Idem

(2) Where an undertaking is transferred from the Crown to an employer or from an employer to the Crown, any person, employee organization, trade union or council of trade unions may apply to the Board, in the case of the transfer of the undertaking to an employer, or to the Tribunal, in the case of the transfer of the undertaking to the Crown,

- (a) within sixty days after the transfer of the undertaking; or
- (b) within sixty days after written notice is given by the employee organization, trade union or council of trade unions of desire to bargain to make or renew, with or without modifications, a collective agreement,

and the Board or the Tribunal, as the case requires, may terminate the bargaining rights of the employee organization, trade union or council of trade unions bound by a collective agreement in respect of employees employed in the undertaking or that has given notice, as the case may be, if in the opinion of the Board or the Tribunal, the transferee of the undertaking has changed the character of the undertaking so that it is substantially different from the undertaking as it was carried on immediately before the transfer.

Where
employees
intermingled

5.—(1) Notwithstanding section 2, where an undertaking is transferred from the Crown to an employer who intermingles the employees employed in the undertaking immediately before the transfer with employees employed in one or more other undertakings carried on by the employer or an undertaking is transferred from an employer to the Crown and employees employed in the undertaking immediately before the transfer are intermingled with employees employed in other undertakings of the Crown and an employee organization, trade union or council of trade unions that is the bargaining agent in respect of employees

employed in any of the undertakings applies to the Board, in the case of the transfer of the undertaking to an employer, or to the Tribunal, in the case of the transfer of the undertaking to the Crown, the Board or the Tribunal, as the case requires,

- (a) may declare that the employer or the Crown, as the case may be, is no longer bound by the collective agreement referred to in section 2 or 3;
- (b) may determine whether the employees concerned constitute one or more appropriate bargaining units;
- (c) may declare which employee organization, trade union or council of trade unions shall be the bargaining agent in respect of each such bargaining unit; and
- (d) may amend, to such extent as the Board or the Tribunal considers necessary,
 - (i) any certificate issued to any trade union or council of trade unions,
 - (ii) any bargaining unit defined in any collective agreement,
 - (iii) any unit of employees determined by the Tribunal to be appropriate for collective bargaining purposes in respect of any of the undertakings, or
 - (iv) any unit of employees that is designated by the Lieutenant Governor in Council as an appropriate bargaining unit for collective bargaining purposes in respect of any of the undertakings.

(2) Where an employee organization, trade union or council of trade unions is declared to be a bargaining agent under subsection 1 and it is not already bound by a collective agreement with the successor employer in respect of employees employed in the undertaking that was transferred, the employee organization, trade union or council of trade unions is entitled to give to the successor employer written notice of desire to bargain to make or renew, with or without modifications, a collective agreement.

- 6.—**(1) Notwithstanding any other provision of this Act,
- (a) a trade union or council of trade unions shall not exercise representation rights or act as bargaining agent

Where
bargaining
agent
ascertained

Compliance
with
requirements
for
bargaining
agent

1972, c. 67,

agent in respect of employees employed in an undertaking transferred from an employer to the Crown unless the trade union or council of trade unions qualifies as an employee organization under *The Crown Employees Collective Bargaining Act, 1972*; and

R.S.O. 1970,
c. 232

- (b) an employee organization shall not exercise representation rights or act as bargaining agent in respect of employees employed in an undertaking transferred from the Crown to an employer unless the employee organization qualifies as a trade union or council of trade unions under *The Labour Relations Act*.

Application
of
R.S.O. 1970,
c. 232;
1972, c. 67

(2) Except as otherwise provided in this Act, where an undertaking is transferred from the Crown to an employer, *The Labour Relations Act* applies to a bargaining agent that has representation rights in respect of the employees employed in the undertaking and to the employees and where an undertaking is transferred from an employer to the Crown, *The Crown Employees Collective Bargaining Act, 1972* applies to a bargaining agent that is certified as a bargaining agent in respect of the employees employed in the undertaking and to the employees.



Application
for
declaration of
qualification

7.—(1) An application may be made to the Tribunal or to the Board and,

- (a) the Tribunal may declare whether or not a trade union or council of trade unions qualifies as an employee organization under *The Crown Employees Collective Bargaining Act, 1972*; and
- (b) the Board may declare whether or not an employee organization qualifies as a trade union or council of trade unions under *The Labour Relations Act*.

Declaration
by Tribunal
or Board

(2) Where the Tribunal is not satisfied that the trade union or council of trade unions is so qualified or the Board is not satisfied that the employee organization is so qualified, the Tribunal or the Board, as the case may be, may specify the steps necessary to so qualify and when satisfied that the steps have been taken,

- (a) the Tribunal shall declare that the trade union, council of trade unions or the successor of either of them is so qualified; or

- (b) the Board shall declare that the employee organization or its successor is so qualified.

(3) A trade union, council of trade unions or successor of either of them that is declared by the Tribunal to be so qualified shall be deemed to have been qualified as an employee organization under *The Crown Employees Collective Bargaining Act, 1972* from and including the day of the transfer to the Crown of the undertaking to which the declaration relates. Effect of declaration by Tribunal 1972, c. 67

(4) An employee organization or its successor that is declared by the Board to be so qualified shall be deemed to have been qualified as a trade union or council of trade unions under *The Labour Relations Act* from and including the day of the transfer to the employer of the undertaking to which the declaration relates. Effect of declaration by Board R.S.O. 1970, c. 232

8. Before disposing of an application under this Act, the Board or the Tribunal, as the case may be, may require the production of such evidence and the doing of such things, or may hold such representation votes, as it considers appropriate. Powers of Board or Tribunal before disposing of application

9. Where an application is made under this Act, the Crown or the employer, as the case may be, is not required, notwithstanding that a notice has been given by an employee organization, trade union or council of trade unions, to bargain with the employee organization, trade union or council of trade unions, as the case may be, concerning the employees to whom the application relates until the Board or the Tribunal, as the case requires, has disposed of the application and has declared which employee organization, trade union or council of trade unions, if any, has the right to bargain with the Crown or the employer, as the case may be, on behalf of the employees concerned in the application. Where Crown or employer not required to bargain

10. For the purposes of *The Crown Employees Collective Bargaining Act, 1972* and *The Labour Relations Act*, notice given under this Act of desire to bargain, to make or renew, with or without modifications, a collective agreement or a declaration by the Board or the Tribunal that an employee organization, trade union or council of trade unions is the bargaining agent in respect of the employees in a bargaining unit has the same effect as the granting of representation rights or certification as bargaining agent. Effect of notice or declaration

11.—(1) Where, on an application before the Board under this Act, a question arises as to whether an under- Power to determine whether transfer

taking has been transferred from the Crown to an employer, the Board shall determine the question and its decision is final and conclusive for the purposes of this Act.

Idem

(2) Where, on an application before the Tribunal under this Act, a question arises as to whether an undertaking has been transferred from an employer to the Crown, the Tribunal shall determine the question and its decision is final and conclusive for the purposes of this Act.

Duty of respondent

(3) Where, on an application under this Act, an employee organization, trade union or council of trade unions alleges that an undertaking was transferred from the Crown to an employer or from an employer to the Crown, the respondents to the application shall adduce at the hearing all facts within their knowledge that are material to the allegation.

Commencement

12. This Act shall be deemed to have come into force on the 31st day of March, 1977.

Short title

13. The short title of this Act is *The Successor Rights (Crown Transfers) Act, 1977*.

An Act to provide for Successor Rights on
the Transfer of an Undertaking to or from
the Crown

1st Reading

June 27th, 1977

2nd Reading

July 11th, 1977

3rd Reading

THE HON. J. A. C. AVLD
Chairman, Management Board
of Cabinet

*(Reprinted as amended by the
Committee of the Whole House)*

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BILL 4

Government
PRINTING

1ST SESSION, 31ST LEGISLATURE, ONTARIO
26 ELIZABETH II, 1977

**An Act to provide for Successor Rights on the Transfer
of an Undertaking to or from the Crown**

THE HON. J. A. C. AULD
Chairman, Management Board of Cabinet



BILL 4

1977

**An Act to provide for Successor Rights on the
Transfer of an Undertaking to or from the
Crown**

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1.—(1) In this Act,

Interpre-
tation

- (a) "bargaining agent" means an employee organization that has representation rights under *The Crown Employees Collective Bargaining Act, 1972* ^{1972, c. 67} or a trade union or council of trade unions that is certified as a bargaining agent under *The Labour Relations Act* ^{R.S.O. 1970, c. 232};
- (b) "Board" means the Ontario Labour Relations Board;
- (c) "collective agreement" means an agreement in writing between the Crown or an employer and an employee organization, trade union or council of trade unions covering terms and conditions of employment;
- (d) "Crown" means Her Majesty in right of Ontario;
- (e) "employer" means an employer other than the Crown;
- (f) "transfer" means a conveyance, disposition or sale;
- (g) "Tribunal" means the Ontario Public Service Labour Relations Tribunal;
- (h) "undertaking" means a business, enterprise, institution, program, project, work or a part of any of them.

Idem

1972, c. 67

(2) For the purposes of an application or other proceeding before the Tribunal under this Act, "employee" has the same meaning as in *The Crown Employees Collective Bargaining Act, 1972*.

Where
collective
agreement
binding on
employer

2.—(1) Where an undertaking is transferred from the Crown to an employer and a bargaining agent has a collective agreement with the Crown in respect of employees employed in the undertaking, the employer is bound by the collective agreement as if a party to the collective agreement until the Board declares otherwise.

Where
application
before
Tribunal

(2) Where an undertaking is transferred from the Crown to an employer while an application is before the Tribunal for representation rights in respect of employees employed in the undertaking or for a declaration that an employee organization no longer represents employees employed in the undertaking, the application shall be transferred to the Board and the employer is the employer for the purposes of the application as if named as the employer in the application until the Board declares otherwise.

Rights of
bargaining
agent

(3) Where an undertaking is transferred from the Crown to an employer and a bargaining agent has been granted representation rights under any Act and has given or is entitled to give written notice of desire to bargain to make or renew a collective agreement in respect of employees employed in the undertaking, the bargaining agent continues, until the Board declares otherwise, to be the bargaining agent in respect of the employees and is entitled to give to the employer written notice of desire to bargain to make or renew, with or without modifications, a collective agreement, as the case requires.

Where
collective
agreement
binding
on Crown

3.—(1) Where an undertaking is transferred from an employer to the Crown and a bargaining agent has a collective agreement with the employer in respect of employees employed in the undertaking, the Crown is bound by the collective agreement as if a party to the collective agreement until the Tribunal declares otherwise.

Where
application
before Board

(2) Where an undertaking is transferred from an employer to the Crown while an application is before the Board for certification or termination of bargaining rights in respect of employees employed in the undertaking, the application shall be transferred to the Tribunal and the Crown is the employer for the purposes of the application as if named as the employer in the application until the Tribunal declares otherwise.

(3) Where an undertaking is transferred from an employer to the Crown and a trade union or council of trade unions has been certified by the Board as bargaining agent or has given or is entitled to give written notice of desire to bargain to make or renew a collective agreement in respect of employees employed in the undertaking, the bargaining agent continues, until the Tribunal declares otherwise, to be the bargaining agent in respect of the employees and is entitled to give to the body representing the Crown or to the Crown, as the case requires, written notice of desire to bargain to make or renew, with or without modifications, a collective agreement, as the case requires.

4.—(1) Where an undertaking was transferred from the Crown to an employer or from an employer to the Crown and an employee organization, trade union or council of trade unions was the bargaining agent in respect of employees employed in the undertaking immediately before the transfer and,

- (a) a question arises as to what constitutes a unit of employees that is appropriate for collective bargaining purposes in respect of the undertaking; or
- (b) any person, employee organization, trade union or council of trade unions claims that by virtue of section 2 or 3, a conflict exists as to the bargaining rights of the employee organization, trade union or council of trade unions,

any person, employee organization, trade union or council of trade unions concerned may apply to the Board, in the case of the transfer of the undertaking to an employer, or to the Tribunal, in the case of the transfer of the undertaking to the Crown, and the Board or the Tribunal, as the case requires,

- (c) may determine the composition of the unit of employees referred to in clause *a*;
- (d) may amend, to such extent as the Tribunal or the Board considers necessary,
 - (i) any bargaining unit in any certificate issued to any trade union or council of trade unions,
 - (ii) any bargaining unit defined in any collective agreement,

- (iii) any unit of employees determined by the Tribunal to be appropriate for collective bargaining purposes in respect of the undertaking, or
- (iv) any unit of employees that is designated by the Lieutenant Governor in Council as an appropriate bargaining unit for collective bargaining purposes in respect of the undertaking.

Idem

(2) Where an undertaking is transferred from the Crown to an employer or from an employer to the Crown, any person, employee organization, trade union or council of trade unions may apply to the Board, in the case of the transfer of the undertaking to an employer, or to the Tribunal, in the case of the transfer of the undertaking to the Crown,

- (a) within sixty days after the transfer of the undertaking; or
- (b) within sixty days after written notice is given by the employee organization, trade union or council of trade unions of desire to bargain to make or renew, with or without modifications, a collective agreement,

and the Board or the Tribunal, as the case requires, may terminate the bargaining rights of the employee organization, trade union or council of trade unions bound by a collective agreement in respect of employees employed in the undertaking or that has given notice, as the case may be, if in the opinion of the Board or the Tribunal, the transferee of the undertaking has changed the character of the undertaking so that it is substantially different from the undertaking as it was carried on immediately before the transfer.

Where
employees
intermingled

5.—(1) Notwithstanding section 2, where an undertaking is transferred from the Crown to an employer who intermingles the employees employed in the undertaking immediately before the transfer with employees employed in one or more other undertakings carried on by the employer or an undertaking is transferred from an employer to the Crown and employees employed in the undertaking immediately before the transfer are intermingled with employees employed in other undertakings of the Crown and an employee organization, trade union or council of trade unions that is the bargaining agent in respect of employees

employed in any of the undertakings applies to the Board, in the case of the transfer of the undertaking to an employer, or to the Tribunal, in the case of the transfer of the undertaking to the Crown, the Board or the Tribunal, as the case requires,

- (a) may declare that the employer or the Crown, as the case may be, is no longer bound by the collective agreement referred to in section 2 or 3;
- (b) may determine whether the employees concerned constitute one or more appropriate bargaining units;
- (c) may declare which employee organization, trade union or council of trade unions shall be the bargaining agent in respect of each such bargaining unit; and
- (d) may amend, to such extent as the Board or the Tribunal considers necessary,
 - (i) any certificate issued to any trade union or council of trade unions,
 - (ii) any bargaining unit defined in any collective agreement,
 - (iii) any unit of employees determined by the Tribunal to be appropriate for collective bargaining purposes in respect of any of the undertakings, or
 - (iv) any unit of employees that is designated by the Lieutenant Governor in Council as an appropriate bargaining unit for collective bargaining purposes in respect of any of the undertakings.

(2) Where an employee organization, trade union or council of trade unions is declared to be a bargaining agent under subsection 1 and it is not already bound by a collective agreement with the successor employer in respect of employees employed in the undertaking that was transferred, the employee organization, trade union or council of trade unions is entitled to give to the successor employer written notice of desire to bargain to make or renew, with or without modifications, a collective agreement. Where bargaining agent ascertained

6.—(1) Notwithstanding any other provision of this Act, Compliance with requirements for bargaining agent

- (a) a trade union or council of trade unions shall not exercise representation rights or act as bargaining agent

1972, c. 67.

agent in respect of employees employed in an undertaking transferred from an employer to the Crown unless the trade union or council of trade unions qualifies as an employee organization under *The Crown Employees Collective Bargaining Act, 1972*; and

R.S.O. 1970,
c. 232

- (b) an employee organization shall not exercise representation rights or act as bargaining agent in respect of employees employed in an undertaking transferred from the Crown to an employer unless the employee organization qualifies as a trade union or council of trade unions under *The Labour Relations Act*.

Application
of
R.S.O. 1970,
c. 232;
1972, c. 67

- (2) Except as otherwise provided in this Act, where an undertaking is transferred from the Crown to an employer, *The Labour Relations Act* applies to a bargaining agent that has representation rights in respect of the employees employed in the undertaking and to the employees and where an undertaking is transferred from an employer to the Crown, *The Crown Employees Collective Bargaining Act, 1972* applies to a bargaining agent that is certified as a bargaining agent in respect of the employees employed in the undertaking and to the employees.

Application
for
declaration of
qualification

7.—(1) An application may be made to the Tribunal or to the Board and,

- (a) the Tribunal may declare whether or not a trade union or council of trade unions qualifies as an employee organization under *The Crown Employees Collective Bargaining Act, 1972*; and
- (b) the Board may declare whether or not an employee organization qualifies as a trade union or council of trade unions under *The Labour Relations Act*.

Declaration
by Tribunal
or Board

(2) Where the Tribunal is not satisfied that the trade union or council of trade unions is so qualified or the Board is not satisfied that the employee organization is so qualified, the Tribunal or the Board, as the case may be, may specify the steps necessary to so qualify and when satisfied that the steps have been taken,

- (a) the Tribunal shall declare that the trade union, council of trade unions or the successor of either of them is so qualified; or

- (b) the Board shall declare that the employee organization or its successor is so qualified.

(3) A trade union, council of trade unions or successor of either of them that is declared by the Tribunal to be so qualified shall be deemed to have been qualified as an employee organization under *The Crown Employees Collective Bargaining Act, 1972* from and including the day of the transfer to the Crown of the undertaking to which the declaration relates. Effect of declaration by Tribunal 1972, c. 67

(4) An employee organization or its successor that is declared by the Board to be so qualified shall be deemed to have been qualified as a trade union or council of trade unions under *The Labour Relations Act* from and including the day of the transfer to the employer of the undertaking to which the declaration relates. Effect of declaration by Board R.S.O. 1970, c. 232

8. Before disposing of an application under this Act, the Board or the Tribunal, as the case may be, may require the production of such evidence and the doing of such things, or may hold such representation votes, as it considers appropriate. Powers of Board or Tribunal before disposing of application

9. Where an application is made under this Act, the Crown or the employer, as the case may be, is not required, notwithstanding that a notice has been given by an employee organization, trade union or council of trade unions, to bargain with the employee organization, trade union or council of trade unions, as the case may be, concerning the employees to whom the application relates until the Board or the Tribunal, as the case requires, has disposed of the application and has declared which employee organization, trade union or council of trade unions, if any, has the right to bargain with the Crown or the employer, as the case may be, on behalf of the employees concerned in the application. Where Crown or employer not required to bargain

10. For the purposes of *The Crown Employees Collective Bargaining Act, 1972* and *The Labour Relations Act*, notice given under this Act of desire to bargain, to make or renew, with or without modifications, a collective agreement or a declaration by the Board or the Tribunal that an employee organization, trade union or council of trade unions is the bargaining agent in respect of the employees in a bargaining unit has the same effect as the granting of representation rights or certification as bargaining agent. Effect of notice or declaration

11.—(1) Where, on an application before the Board under this Act, a question arises as to whether an under- Power to determine whether transfer

taking has been transferred from the Crown to an employer, the Board shall determine the question and its decision is final and conclusive for the purposes of this Act.

Idem

(2) Where, on an application before the Tribunal under this Act, a question arises as to whether an undertaking has been transferred from an employer to the Crown, the Tribunal shall determine the question and its decision is final and conclusive for the purposes of this Act.

Duty of respondent

(3) Where, on an application under this Act, an employee organization, trade union or council of trade unions alleges that an undertaking was transferred from the Crown to an employer or from an employer to the Crown, the respondents to the application shall adduce at the hearing all facts within their knowledge that are material to the allegation.

Commencement

12. This Act shall be deemed to have come into force on the 31st day of March, 1977.

Short title

13. The short title of this Act is *The Successor Rights (Crown Transfers) Act, 1977*.

An Act to provide for Successor Rights on
the Transfer of an Undertaking to or from
the Crown

1st Reading

June 27th, 1977

2nd Reading

July 11th, 1977

3rd Reading

October 18th, 1977

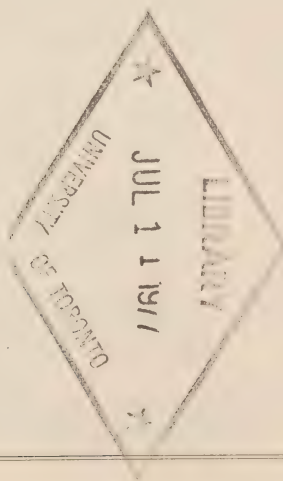
THE HON. J. A. C. AULD
Chairman, Management Board
of Cabinet

1ST SESSION, 31ST LEGISLATURE, ONTARIO
26 ELIZABETH II, 1977

Government
Publications

An Act to amend The Income Tax Act

THE HON. W. D. McKEOUGH
Treasurer of Ontario and Minister of Economics and
Intergovernmental Affairs



TORONTO

PRINTED BY J. C. THATCHER, QUEEN'S PRINTER FOR ONTARIO

EXPLANATORY NOTES

SECTION 1.—Subsections 1 and 2. Subsection 3 of section 3 now reads as follows:

(3) *For the purposes of this section, the percentage of the tax payable under the Federal Act to be used for computing the tax payable under this section is,*

- (a) *16 per cent in respect of the 1962 taxation year;*
- (b) *17 per cent in respect of the 1963 taxation year;*
- (c) *18 per cent in respect of the 1964 taxation year;*
- (d) *21 per cent in respect of the 1965 taxation year;*
- (e) *24 per cent in respect of the 1966 taxation year;*
- (f) *28 per cent in respect of the 1967, 1968, 1969 and 1970 taxation years;*
- (g) *27.5 per cent in respect of the 1971 taxation year; and*
- (h) *30.5 per cent in respect of the 1972, 1973, 1974, 1975, 1976 and 1977 taxation years.*

The amendments provide a new rate of income tax for the 1977 taxation year which is intended to increase the Province's share of the total income tax payable by a resident of Ontario to Canada and to Ontario. Income tax payable to Canada will decrease under arrangements made between the Province and the Federal Government and the increased rate proposed by the amendment will transfer to Ontario the reduction in Canada's share of the total personal income tax payable.

Subsection 3. Subclause ii of clause b of section 3 (6) now reads as follows:

(ii) *the taxpayer's income,*

(A) *for the year, if section 114 of the Federal Act is not applicable, or*

(B) *if section 114 of the Federal Act is applicable, for the period or periods in the year referred to in paragraph a thereof,*

minus any amounts deductible under clause b of subsection 1 of section 111 or section 112 of the Federal Act for the year or such period or periods, as the case may be.

These amendments are consequential to changes made in the Federal Act by Federal Bill C-22, which was assented to on February 24, 1977. The words added are intended, firstly, to clarify the application of subclause ii to income earned in Ontario, and secondly, to add a reference to section 110.1 of the Federal Act so that a taxpayer's deduction for eligible interest and dividends will not reduce his claim for a foreign tax credit against income tax.

An Act to amend The Income Tax Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

- 1.—(1) Clause *g* of subsection 3 of section 3 of *The Income Tax Act*,<sup>s. 3 (3) (g),
amended</sup> being chapter 217 of the Revised Statutes of Ontario, 1970, as enacted by the Statutes of Ontario, 1971 (2nd Session), chapter 1, section 3, is amended by striking out “and” in the second line.
- (2) Clause *h* of subsection 3 of the said section 3, as re-enacted<sup>s. 3 (3) (h),
re-enacted</sup> by the Statutes of Ontario, 1976, chapter 81, section 1, is repealed and the following substituted therefor:
 - (h) 30.5 per cent in respect of the 1972, 1973, 1974, 1975 and 1976 taxation years; and
 - (i) 44 per cent in respect of the 1977 taxation year.
- (3) Subclause ii of clause *b* of subsection 6 of the said section<sup>s. 3 (6) (b) (ii),
amended</sup> 3, as re-enacted by the Statutes of Ontario, 1971 (2nd Session), chapter 1, section 3 and amended by the Statutes of Ontario, 1976, chapter 12, section 1, is further amended,
 - (a) by inserting after “income” in the first line “earned in Ontario”; and
 - (b) by striking out “clause” in the tenth line and inserting in lieu thereof “section 110.1 or paragraph”.
2. Subsection 2 of section 5 of the said Act, as amended by the<sup>s. 5 (2),
re-enacted</sup> Statutes of Ontario, 1971 (2nd Session), chapter 1, section 5, is repealed and the following substituted therefor:
 - (2) Subsection 1 applies only in the case of an individual<sup>Application
of subs. 1</sup> whose chief source of income throughout the averaging period was from farming or fishing.

s. 6a,
amended

3. Section 6a of the said Act, as re-enacted by the Statutes of Ontario, 1976, chapter 12, section 2, is amended by striking out "\$1,534" in the second line and inserting in lieu thereof "\$1,680".

s. 10 (1),
amended

- 4.—(1) Subsection 1 of section 10 of the said Act, as amended by the Statutes of Ontario, 1971 (2nd Session), chapter 1, section 10, is further amended by adding thereto the following clause:

1970-71-72,
c. 229 (Can.)

(da) an amount as a benefit under the *Unemployment Insurance Act, 1971* (Canada).

s. 10 (1),
amended

- (2) Subsection 1 of the said section 10 is further amended by striking out "or" at the end of clause g and by adding thereto the following clauses:

R.S.C. 1970,
c. A-2

(i) an adult training allowance under the *Adult Occupational Training Act* (Canada);

(j) a payment out of or under a registered retirement savings plan or a plan referred to in subsection 12 of section 146 of the Federal Act as an amended plan; or

(k) an amount as, on account of, or in lieu of payment of, or in satisfaction of proceeds of the surrender, cancellation or redemption of an income averaging annuity contract,

.

Commence-
ment

5. This Act shall be deemed to have come into force on the 1st day of January, 1977.

Short title

6. The short title of this Act is *The Income Tax Amendment Act, 1977*.

SECTION 2. Subsection 2 of section 5 now reads as follows:

- (2) *Subsection 1 applies only in the case of an individual who,*
- (a) *throughout the averaging period,*
 - (i) *resided in Ontario, and*
 - (ii) *did not carry on a business with a permanent establishment (which, in this subsection, has the meaning given to that expression under the regulations made pursuant to section 120 of the Federal Act) outside Ontario; or*
 - (b) *throughout the averaging period,*
 - (i) *resided outside Ontario, and*
 - (ii) *had no income other than his income from the carrying on of a business with a permanent establishment in Ontario and nowhere else.*

The re-enactment provides that the income averaging provisions for farmers and fishermen apply, with respect to Ontario income tax, where the taxpayer has carried on farming or fishing during the averaging period in a province other than Ontario. The repealed subsection 2 applied only if the farmer or fisherman, during the averaging period, carried on business in Ontario. The re-enactment will provide that the income-averaging provisions are available to a farmer or fisherman regardless of where he carried on business or in what province he resided so long as his chief source of income, during the averaging period, is from farming or fishing. This will give the same basis of averaging liability to Ontario's personal income tax as is available to a farmer or fisherman in averaging his liability to federal income tax.

SECTION 3. The effect of the amendment is to increase to \$1,680 the level of taxable income below which no Ontario income tax is payable.

SECTION 4. Subsection 1 of section 10 now reads as follows:

- (1) *Every person paying,*
- (a) *salary or wages or other remuneration to an officer or employee;*
 - (b) *a superannuation or pension benefit;*
 - (c) *a retiring allowance;*
 - (d) *an amount upon or after the death of an officer or employee, in recognition of his services, to his legal representative or widow or to any other person whatsoever;*
 - (e) *an amount as a benefit under a supplementary unemployment benefit plan;*
 - (f) *an annuity payment;*
 - (g) *fees, commissions or other amounts for services; or*
 - (h) *a payment under a deferred profit-sharing plan or a plan referred to in section 147 of the Federal Act as a revoked plan,*

at any time in a taxation year shall deduct or withhold therefrom such amount as is prescribed and shall, at such time as is prescribed, remit that amount to the Treasurer on account of the payee's tax for the year under this Act.

These amendments are required to bring the provincial Act into conformity with the federal *Income Tax Act*. They will require deductions at source to be made with respect to unemployment insurance benefits, adult training allowances, and lump sum payments under registered retirement savings plans and income averaging annuity contracts. The changes reflect amendments recently made to the Federal Act.

An Act to amend
The Income Tax Act

1st Reading

June 27th, 1977

2nd Reading

3rd Reading

THE HON. W. D. McKEOUGH
Treasurer of Ontario and
Minister of Economics and
Intergovernmental Affairs

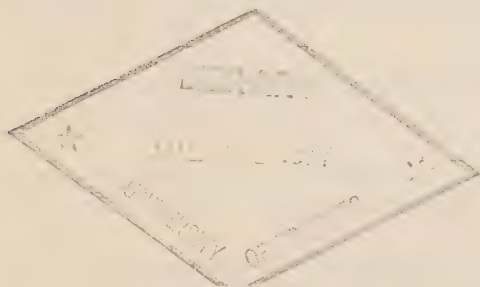
(Government Bill)

BILL 5

1ST SESSION, 31ST LEGISLATURE, ONTARIO
26 ELIZABETH II, 1977

An Act to amend The Income Tax Act

THE HON. W. D. McKEOUGH
Treasurer of Ontario and Minister of Economics and
Intergovernmental Affairs



TORONTO

PRINTED BY J. C. THATCHER, QUEEN'S PRINTER FOR ONTARIO

An Act to amend The Income Tax Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

- 1.—(1) Clause *g* of subsection 3 of section 3 of *The Income Tax Act*, being chapter 217 of the Revised Statutes of Ontario, 1970, as enacted by the Statutes of Ontario, 1971 (2nd Session), chapter 1, section 3, is amended by striking out “and” in the second line. s. 3 (3) (g),
amended
- (2) Clause *h* of subsection 3 of the said section 3, as re-enacted by the Statutes of Ontario, 1976, chapter 81, section 1, is repealed and the following substituted therefor: s. 3 (3) (h),
re-enacted
 - (h) 30.5 per cent in respect of the 1972, 1973, 1974, 1975 and 1976 taxation years; and
 - (i) 44 per cent in respect of the 1977 taxation year.
- (3) Subclause ii of clause *b* of subsection 6 of the said section 3, as re-enacted by the Statutes of Ontario, 1971 (2nd Session), chapter 1, section 3 and amended by the Statutes of Ontario, 1976, chapter 12, section 1, is further amended, s. 3 (6) (b) (ii),
amended
 - (a) by inserting after “income” in the first line “earned in Ontario”; and
 - (b) by striking out “clause” in the tenth line and inserting in lieu thereof “section 110.1 or paragraph”.
2. Subsection 2 of section 5 of the said Act, as amended by the Statutes of Ontario, 1971 (2nd Session), chapter 1, section 5, is repealed and the following substituted therefor: s. 5 (2),
re-enacted
 - (2) Subsection 1 applies only in the case of an individual whose chief source of income throughout the averaging period was from farming or fishing. Application
of subs. 1

s. 6a,
amended

3. Section 6a of the said Act, as re-enacted by the Statutes of Ontario, 1976, chapter 12, section 2, is amended by striking out "\$1,534" in the second line and inserting in lieu thereof "\$1,680".

s. 10 (1),
amended

- 4.—(1) Subsection 1 of section 10 of the said Act, as amended by the Statutes of Ontario, 1971 (2nd Session), chapter 1, section 10, is further amended by adding thereto the following clause:

1970-71-72,
c. 229 (Can.)

(da) an amount as a benefit under the *Unemployment Insurance Act, 1971* (Canada).

s. 10 (1),
amended

- (2) Subsection 1 of the said section 10 is further amended by striking out "or" at the end of clause g and by adding thereto the following clauses:

R.S.C. 1970,
c. A-2

(i) an adult training allowance under the *Adult Occupational Training Act* (Canada);

(j) a payment out of or under a registered retirement savings plan or a plan referred to in subsection 12 of section 146 of the Federal Act as an amended plan; or

(k) an amount as, on account of, or in lieu of payment of, or in satisfaction of proceeds of the surrender, cancellation or redemption of an income averaging annuity contract,

.

Commence-
ment

5. This Act shall be deemed to have come into force on the 1st day of January, 1977.

Short title

6. The short title of this Act is *The Income Tax Amendment Act, 1977*.

An Act to amend
The Income Tax Act

1st Reading

June 27th, 1977

2nd Reading

June 28th, 1977

3rd Reading

June 30th, 1977

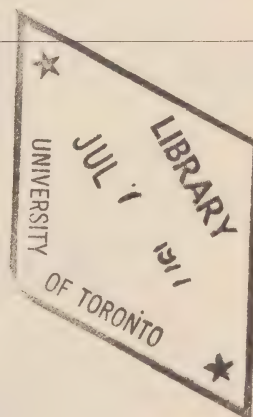
THE HON. W. D. McKEOUGH
Treasurer of Ontario and
Minister of Economics and
Intergovernmental Affairs

1ST SESSION, 31ST LEGISLATURE, ONTARIO
26 ELIZABETH II, 1977

Government
Publications

**An Act to amend
The Ontario Unconditional Grants Act, 1975**

THE HON. W. D. McKEOUGH
Treasurer of Ontario and Minister of Economics and
Intergovernmental Affairs



TORONTO

PRINTED BY J. C. THATCHER, QUEEN'S PRINTER FOR ONTARIO

EXPLANATORY NOTES

SECTION 1. The sections being re-enacted as they presently read are set out below, showing underlined the per capita and other sums that will be increased.

3. *In each year there shall be paid to each regional municipality a payment or payments in accordance with the population of the area municipalities within the regional municipality as follows:*

1. \$9 per capita.

2. An amount per capita in accordance with Schedule 1 based on the density of each area municipality.

3. \$12 per capita where a regional municipality is deemed to be a city for the purposes of The Police Act.

4. \$8 per capita based on the population of each area municipality providing its own law enforcement by maintaining its own police force or being under contract for the policing of the municipality by the Ontario Provincial Police Force in accordance with The Police Act.

4. *In each year, the regional municipality shall credit each area municipality with an amount calculated by multiplying the population of the area municipality by the sum of,*

(a) \$9;

(b) the per capita amount in relation to the area municipality in accordance with Schedule 1 based on the density of the area municipality;

(c) \$12 where a regional municipality is deemed to be a city for the purposes of The Police Act; or

(d) \$8 in relation to each area municipality to which paragraph 4 of section 3 applies.

BILL 6

1977

**An Act to amend
The Ontario Unconditional Grants Act, 1975**

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Sections 3 and 4 of *The Ontario Unconditional Grants Act*, ss. 3, 4, 1975, being chapter 7, are repealed and the following substituted therefor: re-enacted

3. In each year there shall be paid to each regional municipality a payment or payments in accordance with the population of the area municipalities within the regional municipality as follows: Per capita grants

1. \$10 per capita.
2. An amount per capita in accordance with Schedule 1 based on the density of each area municipality.
3. \$15 per capita where a regional municipality is deemed to be a city for the purposes of *The Police Act*. R.S.O. 1970,
c. 351
4. \$10 per capita based on the population of each area municipality providing its own law enforcement by maintaining its own police force or being under contract for the policing of the municipality by the Ontario Provincial Police Force in accordance with *The Police Act*.

4. In each year, the regional municipality shall credit each area municipality with an amount calculated by multiplying the population of the area municipality by the sum of, Credit to area municipalities

- (a) \$10;
- (b) the per capita amount in relation to the area municipality in accordance with Schedule 1 based on the density of the area municipality;

R.S.O. 1970,
c. 351

(c) \$15 where a regional municipality is deemed to be a city for the purposes of *The Police Act*; or

(d) \$10 in relation to each area municipality to which paragraph 4 of section 3 applies.

s. 5 (3),
re-enacted

2. Subsection 3 of section 5 of the said Act is repealed and the following substituted therefor:

Idem

(3) In each year, payments of \$10 per capita shall be made to each municipality providing its own law enforcement by maintaining its own police force, or being under contract for the policing of the municipality by the Ontario Provincial Police Force in accordance with *The Police Act*.

s. 6 (3),
repealed

3. Subsection 3 of section 6 of the said Act is repealed.

s. 7 (4),
repealed

4. Subsection 4 of section 7 of the said Act is repealed.

s. 8,
re-enacted

5. Section 8 of the said Act is repealed and the following substituted therefor:

Transitional
grants

8. The Lieutenant Governor in Council may, to minimize changes in the incidence of local taxation and to promote the development of services on a regional basis, by order, upon such terms and conditions as he considers appropriate, provide for payments to be made,

(a) to any regional municipality or lower tier municipality affected by an amalgamation, annexation or change in the responsibility for the provision of services, for a period not exceeding five years after the effective date of such amalgamation, annexation or change in responsibility; and

(b) to the Township of Goulbourn, the Township of Rideau, and the Township of West Carleton for a period not exceeding five years from the 1st day of January, 1974.

s. 9,
re-enacted

6. Section 9 of the said Act is repealed and the following substituted therefor:

Resource
equalization
grants

9. In each year there shall be paid a resource equalization grant to each lower tier municipality whose equalized assessment per capita in the preceding year is below \$10,650, or such other amount as may be prescribed, in an amount based, in the manner prescribed, on the proportion that 60 per cent of such deficiency of equalized assessment per capita bears to \$10,650 as applied to the net levy of the lower tier municipality.

SECTION 2. The effect of the re-enactment is to increase from \$8 to \$10 the per capita payments to each municipality that maintains its own police force or is under contract for policing by the Ontario Provincial Police Force.

SECTION 3. The subsection presently reads as follows:

- (3) *There shall be paid to each municipality set out in column 1 of Schedule 3,*
- (a) *in the year 1975, the sum set opposite the name of the municipality in column 2; and*
- (b) *in the year 1976, the sum, if any, set opposite the name of the municipality in column 3.*

Providing as it does for certain payments to municipalities in the years 1975 and 1976 only, the subsection is being repealed as spent.

SECTION 4. The subsection presently reads as follows:

- (4) *Where in 1975 in any lower tier municipality, the mill rates that would have been levied on residential and farm property for all purposes, other than school purposes, would increase more than 5 per cent over the mill rates which would have been levied on such property had the method of calculating such mill rates not changed, the Minister may, by order, make a grant to such municipality under such terms and conditions as the Minister considers necessary in the circumstances.*

Similar in intent to section 3 of the Bill; the provision is repealed as spent.

SECTION 5. Section 8 presently reads as follows:

8. *The Lieutenant Governor in Council may, to minimize changes in the incidence of local taxation and to promote the development of services on a regional basis, by order, upon such terms and conditions as he considers appropriate, provide for payments to be made,*
- (a) *to The Regional Municipality of Niagara, The Regional Municipality of Ottawa-Carleton, The Regional Municipality of York, The District Municipality of Muskoka and to any area municipality therein for a period not exceeding five years from the 23rd day of July, 1971;*
- (b) *to any other regional municipality or lower tier municipality affected by any amalgamation, annexation or change in the responsibility for the provision of services, for a period not exceeding five years after the effective date of such amalgamation, annexation or change in responsibility; and*
- (c) *notwithstanding clause a, to the Township of Goulbourn, the Township of Rideau, and the Township of West Carleton for a period not exceeding five years from the 1st day of January, 1974.*

The effect of the re-enactment is to repeal the present clause *a* as spent; minor consequential amendments to the present clauses *b* and *c* (now to appear as clauses *a* and *b*) are indicated by the underlining of the words to be deleted.

SECTION 6. The effect of the re-enactment is to increase from \$10,400 to \$10,650 the equalized assessment per capita of a municipality as the basis of qualification for a resource equalization grant.

SECTION 7. Subsection 3 of section 10 as it presently reads, showing underlined the words to be deleted, is set out below; applying as it does to the year 1975 only, the provision is spent.

- (3) *In each year, the clerk of every lower tier municipality that received a resource equalization grant in the preceding year shall provide, on or before the 1st day of April, to the upper tier municipality, a statement of the amount of the resource equalization grant in respect of the preceding year and the amount to be added to the equalized assessment of the municipality under subsection 1, provided that in 1975, lower tier municipalities in the County of Oxford shall use the estimated 1975 resource equalization grant.*

SECTION 8. Subsection 2 of section 11 as it presently reads, showing underlined the words to be deleted, is set out below:

- (2) *For the purposes of subsection 1, the portion shall be the ratio of taxes levied on commercial assessment in the preceding year for the upper tier municipality to the total taxes levied on commercial assessment in the preceding year for all purposes, other than school purposes, provided that for the County of Oxford in 1975, the ratio shall be determined using the estimated current year taxes.*

The provision applies to the year 1975 only and accordingly is spent.

SECTION 9. The subsection to be repealed reads as follows:

- (2) *In the case of the County of Oxford, a preliminary apportionment may be made in 1975 notwithstanding section 10 and an adjustment to that apportionment shall be made when the amount of the 1975 resource equalization grant entitlement for all area municipalities in the County is determined.*

It is repealed as applying to the year 1975 only, and accordingly is spent.

SECTION 10. Section 14 reads as follows:

- 14.—(1) *In the case of the County of Oxford, in 1975, and for the purposes of section 10, the equalized assessment of a lower tier municipality shall for apportionment purposes, other than for school purposes or apportionment between merged areas, be increased by an amount that would have produced the amount of the resource equalization grant entitlement in 1975 by the taxation of real property at the mill rate determined by dividing the total estimated taxes levied by the lower tier municipality in 1975 for all purposes other than school purposes on commercial assessment for 1975 by the total equalized commercial assessment for 1975, times 1,000.*
- (2) *In determining the taxes levied on commercial assessment under subsection 1, there shall be excluded the taxes added to the collector's roll under section 43 of The Assessment Act and the assessment on which such taxes are based.*

Applying to the year 1975 only, it is repealed as spent.

7. Subsection 3 of section 10 of the said Act is amended by striking out "provided that in 1975, lower tier municipalities in the County of Oxford shall use the estimated 1975 resource equalization grant" in the seventh, eighth, ninth and tenth lines. s. 10 (3),
amended
8. Subsection 2 of section 11 of the said Act is amended by striking out "provided that for the County of Oxford in 1975, the ratio shall be determined using the estimated current year taxes" in the fifth, sixth and seventh lines. s. 11 (2),
amended
9. Subsection 2 of section 13 of the said Act is repealed. s. 13 (2),
repealed
10. Section 14 of the said Act is repealed. s. 14,
repealed
11. Sections 16 and 17 of the said Act are repealed and the following substituted therefor: ss. 16, 17,
re-enacted

16. In each year there shall be paid a special support grant of 18 per cent, or such other percentage as may be prescribed, of the net levy of each upper tier municipality and each lower tier municipality, to each such municipality that is situate in the northern part of Ontario. Special
support
grant

17. In each year there shall be paid to the Township of Chisholm, the Township of Airy, the Improvement District of Cameron and any lower tier municipality situated in the Territorial District of Parry Sound, a special support grant of 18 per cent, or such other percentage as may be prescribed, of the net levy of such municipality. Idem

- 12.—(1) Schedule 2 to the said Act is repealed and the following substituted therefor: Sched. 2,
re-enacted

SCHEDULE 2

POPULATION RANGE	RATE OF GRANT
0 - 5,000	\$7.00 × (Pop.)
5,001 - 10,000	\$ 35,000 + \$7.40 × (Pop. over 5,000)
10,001 - 15,000	\$ 72,000 + \$7.60 × (Pop. over 10,000)
15,001 - 20,000	\$ 110,000 + \$7.80 × (Pop. over 15,000)
20,001 - 25,000	\$ 149,000 + \$8.00 × (Pop. over 20,000)
25,001 - 50,000	\$ 189,000 + \$8.20 × (Pop. over 25,000)
50,001 - 75,000	\$ 394,000 + \$8.40 × (Pop. over 50,000)
75,001 - 100,000	\$ 604,000 + \$8.60 × (Pop. over 75,000)
100,001 - 200,000	\$ 819,000 + \$8.80 × (Pop. over 100,000)
200,001 or more	\$1,699,000 + \$9.00 × (Pop. over 200,000)

- (2) Schedule 3 to the said Act is repealed.

Sched. 3,
repealed

Commence-
ment

13. This Act shall be deemed to have come into force on the 1st day of January, 1977.

Short title

14. The short title of this Act is *The Ontario Unconditional Grants Amendment Act, 1977*.

SECTION 11. The sections being re-enacted as they presently read are set out below showing underlined the percentages applicable to a special support grant that will be increased to 18 per cent in each case.

16. *In each year there shall be paid a special support grant of 15 per cent, or such other percentage as may be prescribed, of the net levy of each upper tier municipality and each lower tier municipality, to each such municipality that is situate in the northern part of Ontario.*

17. *In each year there shall be paid to the Township of Chisholm, the Improvement District of Cameron and any lower tier municipality situated in the Territorial District of Parry Sound, a special support grant of 7.5 per cent, or such other percentage as may be prescribed, of the net levy of such municipality.*

SECTION 12.—Subsection 1. Schedule 2 now reads as follows:

SCHEDULE 2

<i>Population Range</i>	<i>Rate of Grant</i>
<i>0 — 5,000</i>	<i>\$6.00 × (Pop.)</i>
<i>5,001 — 10,000</i>	<i>\$ 30,000 + \$6.40 × (Pop. over 5,000)</i>
<i>10,001 — 15,000</i>	<i>\$ 62,000 + \$6.60 × (Pop. over 10,000)</i>
<i>15,001 — 20,000</i>	<i>\$ 95,000 + \$6.80 × (Pop. over 15,000)</i>
<i>20,001 — 25,000</i>	<i>\$ 129,000 + \$7.00 × (Pop. over 20,000)</i>
<i>25,001 — 50,000</i>	<i>\$ 164,000 + \$7.20 × (Pop. over 25,000)</i>
<i>50,001 — 75,000</i>	<i>\$ 344,000 + \$7.40 × (Pop. over 50,000)</i>
<i>75,001 — 100,000</i>	<i>\$ 529,000 + \$7.60 × (Pop. over 75,000)</i>
<i>100,001 — 200,000</i>	<i>\$ 719,000 + \$7.80 × (Pop. over 100,000)</i>
<i>200,001 or more</i>	<i>\$ 1,499,000 + \$8.00 × (Pop. over 200,000)</i>

The effect of the re-enactment is to increase the amount of grants paid to municipalities on the basis of population by an across-the-board amount of \$1 per capita.

Subsection 2. Complementary to section 3 of the Bill; the Schedule being repealed sets out certain named municipalities and the amount of grants payable to them in the years 1975 and 1976.

An Act to amend
The Ontario Unconditional Grants
Act, 1975

1st Reading

June 27th, 1977

2nd Reading

3rd Reading

THE HON. W. D. McKEOUGH
Treasurer of Ontario and
Minister of Economics and
Intergovernmental Affairs

(Government Bill)

2B
-B56

1ST SESSION, 31ST LEGISLATURE, ONTARIO
26 ELIZABETH II, 1977

**An Act to amend
The Ontario Unconditional Grants Act, 1975**

THE HON. W. D. McKEOUGH
Treasurer of Ontario and Minister of Economics and
Intergovernmental Affairs



An Act to amend The Ontario Unconditional Grants Act, 1975

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Sections 3 and 4 of *The Ontario Unconditional Grants Act*, ss. 3, 4, 1975, being chapter 7, are repealed and the following substituted therefor:

3. In each year there shall be paid to each regional municipality a payment or payments in accordance with the population of the area municipalities within the regional municipality as follows:

1. \$10 per capita.
2. An amount per capita in accordance with Schedule 1 based on the density of each area municipality.
3. \$15 per capita where a regional municipality is deemed to be a city for the purposes of *The Police Act*. R.S.O. 1970, c. 351
4. \$10 per capita based on the population of each area municipality providing its own law enforcement by maintaining its own police force or being under contract for the policing of the municipality by the Ontario Provincial Police Force in accordance with *The Police Act*.

4. In each year, the regional municipality shall credit each area municipality with an amount calculated by multiplying the population of the area municipality by the sum of,

(a) \$10;

(b) the per capita amount in relation to the area municipality in accordance with Schedule 1 based on the density of the area municipality;

R.S.O. 1970,
c. 351

(c) \$15 where a regional municipality is deemed to be a city for the purposes of *The Police Act*; or

(d) \$10 in relation to each area municipality to which paragraph 4 of section 3 applies.

s. 5 (3),
re-enacted

2. Subsection 3 of section 5 of the said Act is repealed and the following substituted therefor:

Idem

(3) In each year, payments of \$10 per capita shall be made to each municipality providing its own law enforcement by maintaining its own police force, or being under contract for the policing of the municipality by the Ontario Provincial Police Force in accordance with *The Police Act*.

s. 6 (3),
repealed

3. Subsection 3 of section 6 of the said Act is repealed.

s. 7 (4),
repealed

4. Subsection 4 of section 7 of the said Act is repealed.

s. 8,
re-enacted

5. Section 8 of the said Act is repealed and the following substituted therefor:

Transitional
grants

8. The Lieutenant Governor in Council may, to minimize changes in the incidence of local taxation and to promote the development of services on a regional basis, by order, upon such terms and conditions as he considers appropriate, provide for payments to be made,

(a) to any regional municipality or lower tier municipality affected by an amalgamation, annexation or change in the responsibility for the provision of services, for a period not exceeding five years after the effective date of such amalgamation, annexation or change in responsibility; and

(b) to the Township of Goulbourn, the Township of Rideau, and the Township of West Carleton for a period not exceeding five years from the 1st day of January, 1974.

s. 9,
re-enacted

6. Section 9 of the said Act is repealed and the following substituted therefor:

Resource
equalization
grants

9. In each year there shall be paid a resource equalization grant to each lower tier municipality whose equalized assessment per capita in the preceding year is below \$10,650, or such other amount as may be prescribed, in an amount based, in the manner prescribed, on the proportion that 60 per cent of such deficiency of equalized assessment per capita bears to \$10,650 as applied to the net levy of the lower tier municipality.

7. Subsection 3 of section 10 of the said Act is amended by striking out "provided that in 1975, lower tier municipalities in the County of Oxford shall use the estimated 1975 resource equalization grant" in the seventh, eighth, ninth and tenth lines. s. 10 (3),
amended
8. Subsection 2 of section 11 of the said Act is amended by striking out "provided that for the County of Oxford in 1975, the ratio shall be determined using the estimated current year taxes" in the fifth, sixth and seventh lines. s. 11 (2),
amended
9. Subsection 2 of section 13 of the said Act is repealed. s. 13 (2),
repealed
10. Section 14 of the said Act is repealed. s. 14,
repealed
11. Sections 16 and 17 of the said Act are repealed and the following substituted therefor: ss. 16, 17,
re-enacted
16. In each year there shall be paid a special support grant of 18 per cent, or such other percentage as may be prescribed, of the net levy of each upper tier municipality and each lower tier municipality, to each such municipality that is situate in the northern part of Ontario. Special
support
grant
17. In each year there shall be paid to the Township of Chisholm, the Township of Airy, the Improvement District of Cameron and any lower tier municipality situated in the Territorial District of Parry Sound, a special support grant of 18 per cent, or such other percentage as may be prescribed, of the net levy of such municipality. Idem
- 12.—(1) Schedule 2 to the said Act is repealed and the following substituted therefor: Sched. 2,
re-enacted

SCHEDULE 2

POPULATION RANGE	RATE OF GRANT	
0 — 5,000	\$7.00 × (Pop.)	
5,001 — 10,000	\$ 35,000 +	\$7.40 × (Pop. over 5,000)
10,001 — 15,000	\$ 72,000 +	\$7.60 × (Pop. over 10,000)
15,001 — 20,000	\$ 110,000 +	\$7.80 × (Pop. over 15,000)
20,001 — 25,000	\$ 149,000 +	\$8.00 × (Pop. over 20,000)
25,001 — 50,000	\$ 189,000 +	\$8.20 × (Pop. over 25,000)
50,001 — 75,000	\$ 394,000 +	\$8.40 × (Pop. over 50,000)
75,001 — 100,000	\$ 604,000 +	\$8.60 × (Pop. over 75,000)
100,001 — 200,000	\$ 819,000 +	\$8.80 × (Pop. over 100,000)
200,001 or more	\$1,699,000 +	\$9.00 × (Pop. over 200,000)

- (2) Schedule 3 to the said Act is repealed.

Sched. 3,
repealed

Commence-
ment

13. This Act shall be deemed to have come into force on the 1st day of January, 1977.

Short title

14. The short title of this Act is *The Ontario Unconditional Grants Amendment Act, 1977*.

An Act to amend
The Ontario Unconditional Grants
Act, 1975

1st Reading

June 27th, 1977

2nd Reading

June 29th, 1977

3rd Reading

June 30th, 1977

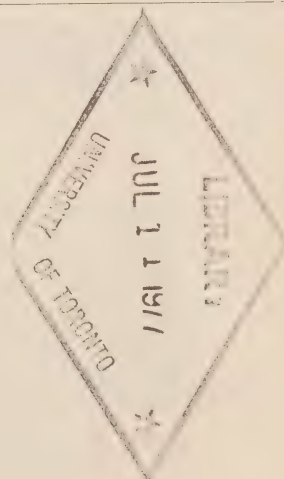
THE HON. W. D. McKEOUGH
Treasurer of Ontario and
Minister of Economics and
Intergovernmental Affairs

1ST SESSION, 31ST LEGISLATURE, ONTARIO
26 ELIZABETH II, 1977

**Government
Publications**

An Act to amend The Succession Duty Act

THE HON. W. D. McKEOUGH
Treasurer of Ontario and Minister of Economics and
Intergovernmental Affairs



TORONTO

PRINTED BY J. C. THATCHER, QUEEN'S PRINTER FOR ONTARIO

EXPLANATORY NOTES

GENERAL

In accordance with the Treasurer's Budget, the amendments proposed in this Bill provide that the duty-free threshold for estates is raised from \$250,000 to \$300,000. As well, the additional rate will not apply to receipts by an individual of \$300,000 or less. The amendment provides that capital gains tax arising from the deemed disposition at death provisions of the *Income Tax Act* (Canada) may be fully credited against succession duty payable, rather than deducted from aggregate value as a debt of the estate, at the election of the executor. Provision is made for release of new classes of property without the consent of the Minister of Revenue.

SECTION 1.—Subsections 1 and 2. The repeal of clauses *bb* and *cc* of subsections 1 and 5 of section 7 of the Act result in increasing the minimum value of the dutiable estate passing to the preferred and the collateral beneficiaries from \$250,000 to \$300,000.

Subsection 3. The amendment serves to increase the deduction allowed in computing the aggregate value of an estate from \$250,000 to \$300,000.

Subsection 4. The amendment alters the notch provision contained in section 7 (8) (c) (i) to increase the value to be deducted from the aggregate value of the estate from \$250,000 to \$300,000.

SECTION 2. The amendment enacts a new section to permit the executors of an estate to elect to have taxes payable under the *Income Tax Act* (Canada) in respect of certain deemed disposition on death treated as a credit against succession duty payable by each beneficiary. Taxes payable in respect of deemed dispositions under the *Income Tax Act* (Canada) will be disallowed as a debt of the estate in calculating the aggregate value. The amount of such taxes will be allocated as a credit against any succession duty payable by each beneficiary in proportion to that beneficiary's share of the estate to the extent of that beneficiary's liability for succession duty. There may be credited only that portion of such taxes that dutiable value bears to the total value of the estate and only to the extent of that beneficiary's liability for succession duty.

An Act to amend The Succession Duty Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

- 1.—(1) Clause *bb* of subsection 1 of section 7 of *The Succession Duty Act*, being chapter 449 of the Revised Statutes of Ontario, 1970, as re-enacted by the Statutes of Ontario, 1975, chapter 14, section 1, is repealed. s. 7 (1) (*bb*),
repealed
- (2) Clause *cc* of subsection 5 of the said section 7, as re-enacted by the Statutes of Ontario, 1975, chapter 14, section 1, is repealed. s. 7 (5) (*cc*),
repealed
- (3) Clause *b* of subsection 7 of the said section 7, as enacted by the Statutes of Ontario, 1975, chapter 14, section 1, is repealed and the following substituted therefor: s. 7 (7) (*b*),
re-enacted
 - (b) \$300,000.
- (4) Subclause *i* of clause *c* of subsection 8 of the said section 7, as amended by the Statutes of Ontario, 1975, chapter 14, section 1, is further amended by striking out “\$250,000” in the amendment of 1975 and inserting in lieu thereof “\$300,000”. s. 7 (8) (*c*) (i),
amended

2. The said Act is amended by adding thereto the following section: s. 7*a*,
enacted

7*a*.—(1) Where,

Application

- (a) subsections 5, 5.1 and 5.2 of section 70 of the *Income Tax Act* (Canada) are applicable in respect of a deceased; and 1970-71,
c. 63 (Can.)

- (b) the executor so elects,

the provisions of this section apply.

Rules that
apply where
election
made under
subs. 1

(2) Where an executor has made a valid election under subsection 1 in the form and manner and at the times prescribed by the regulations, in computing the duty payable by a beneficiary under this Act, the following rules shall apply:

1. Allowance shall not be made under subsection 6 of section 3 for the amount of any tax on deemed dispositions of the deceased.

2. The amount of duty otherwise payable by each beneficiary under this Act shall be reduced by the lesser of,

(a) that proportion of the amount of tax on deemed dispositions of the deceased that,

(i) the elected dutiable value of all property situate in Ontario that passes on the death of the deceased to or for the benefit of the beneficiary, plus the elected dutiable value of all transmissions to the beneficiary, plus the elected dutiable value of all dispositions to the beneficiary that do not come within clause g of subsection 1 of section 5, bears to,

(ii) the elected aggregate value; and

(b) the amount of duty otherwise payable by the beneficiary under this Act.

How
elected
aggregate
value
computed

(3) For the purposes of this section, elected aggregate value and elected dutiable value shall be computed in the manner prescribed by the regulations.

Interpre-
tation

(4) In this section,

(a) "duty otherwise payable" means the duty levied on a beneficiary and on property passing on the death of the deceased to or for the benefit of that beneficiary determined in accordance with this Act as though paragraph 2 of subsection 2 did not apply;

(b) "tax on deemed dispositions of the deceased" means the prescribed proportion of tax payable under *The Income Tax Act*, being chapter 217 of the Revised Statutes of Ontario, 1970, and the *Income Tax Act* (Canada) in respect of the deceased for

SECTION 3. The amendment adds subsection 6*a* to section 10 of the Act and permits the classes of property that may be disposed of or transferred without the Minister's consent to be broadened by regulation.

SECTION 4. This amendment will enable the current Affidavit of Value and Relationship to be replaced by a simplified return of the estate. A return may also be filed by an executor or person administering the estate.

the taxation year, determined in accordance with those Acts, in which the deceased died, minus an amount equal to the amount of any payment deemed by subsection 6 of section 164 of the *Income Tax Act* (Canada) to have been made.

1970-71,
c. 63 (Can.)

3. Section 10 of the said Act, as amended by the Statutes of Ontario, 1976, chapter 20, section 4, is further amended by adding thereto the following subsection:

s. 10,
amended

(6a) Notwithstanding anything in this Act, any person or class of persons prescribed by the Minister by regulation may, without the consent of the Minister, deliver, assign, transfer or pay, or permit the delivery, assignment, transfer or payment of, any property or class of property prescribed by the Minister by regulation that is,

Where
no consent
necessary

(a) property in which the deceased had at the time of his death any beneficial interest; or

(b) property passing on the death of the deceased,

and that passes on the death of the deceased to or for the benefit of any person or class of persons prescribed by the Minister by regulation.

4. Section 13 of the said Act, as amended by the Statutes of Ontario, 1973, chapter 109, section 5, is repealed and the following substituted therefor:

s. 13,
re-enacted

13.—(1) Every person,

Filing
return

(a) who is the executor, or one of the executors of, the deceased acting in the administration of his estate; or

(b) to whom or for whose benefit any property situate in Ontario passes on the death of the deceased or to whom there is a transmission or to whom a disposition is made, any of which property, disposition or transmission is not included in a return made under this section by a person described in clause *a* or *c*; or

(c) who, not being an executor of the deceased, is acting in the administration of the estate of the deceased,

shall, within six months after the death of the deceased or within such further period as may be allowed by the Minister,

make and file with the Minister a return, in such form and containing such information as is prescribed by the Minister by regulation, setting forth,

- (d) an inventory of all the property passing on the death of the deceased and of all dispositions made by the deceased of which he has knowledge, and such inventory shall show the value of such property and dispositions; and
- (e) the names of all persons to whom or for whose benefit any property passes on the death of the deceased or to whom there is a transmission or to whom any disposition is made, their places of residence and the degree of relationship in which they stand to the deceased.

Additional
information

(2) Where the Minister considers it necessary, he may in writing demand from any person a statement or information or a return verified by affidavit or in the form of an affidavit deposing the facts known to the deponent concerning any matter or information relating to subsection 1 specified by the Minister in such demand.

Penalty

(3) Every person in Ontario who makes default in complying with subsection 1 or 2 may be required to pay to the Treasurer as a penalty the sum of \$10 for each day during which the default continues.

s. 14 (2),
amended

5. Subsection 2 of section 14 of the said Act is amended by striking out "an affidavit purporting to be the affidavit required by subsection 1 or 2" in the eighth and ninth lines and inserting in lieu thereof "a return purporting to be the return required by subsection 1".

s. 44,
amended

6.—(1) Section 44 of the said Act, as amended by the Statutes of Ontario, 1976, chapter 20, section 8, is further amended by striking out clause *a* and by adding thereto the following clauses:

- (g) prescribing the form and manner and the times at which an election under section 7*a* shall be made;
- (h) prescribing the terms and conditions and providing for the method of the calculations for the purposes of section 7*a*.

s. 44
amended

(2) The said section 44 is further amended by adding thereto the following subsections:

SECTION 5. Complementary to section 4 of the Bill.

SECTION 6.—Subsection 1. This amendment adds to the regulation-making power of the Lieutenant Governor in Council those things prescribed by the Act to be done by regulation. Provision is made for the form and manner of calculation to determine the credit against succession duty and the manner of election provided for in section 7*a*. The regulations, if they so provide, will have retroactive effect. The provisions of section 6 are subject to passage of section 2 of this Bill.

Subsection 2. This amendment gives the Minister authority to make regulations where the Act contemplates regulations and to prescribe forms.

Subsection 3. This amendment authorizes retroactive regulations to be made.

SECTION 7.—Subsection 1. Subsection 4 of section 50 of *The Registry Act* is amended to dispense with the Minister's consent for any discharge of mortgage.

Subsection 2. The new subsection 4a is added to section 50 to dispense with the Minister's consent for the registration of conveyances of property for which the Minister's consent is not required under *The Succession Duty Act*.

Subsection 3. The amendment to subsection 9 of section 50 is to up-date the requirement for the registration of consents by dispensing with the Minister's consents for registration of conveyances in respect of deaths occurring prior to January 1, 1950.

SECTION 8.—Subsections 1, 2 and 3. Section 140 of *The Land Titles Act* is amended to parallel the amendments to *The Registry Act* made by section 7 of the Bill.

(2) The Minister may make regulations,

Regulations
by Minister

- (a) prescribing, defining or determining anything that the Minister is permitted or required by this Act to prescribe, define or determine;
- (b) prescribing any form required by this Act or the regulations or that, in his opinion, will assist in the administration of this Act, and prescribing how and by whom any form shall be completed and what information it shall contain.

(3) A regulation, if it so provides, is effective with reference to a period before it was filed.

Regulation
may be
retroactive

7.—(1) Subsection 4 of section 50 of *The Registry Act*, being chapter 409 of the Revised Statutes of Ontario, 1970, is amended by striking out "discharge of mortgage" in the third and fourth lines.

R.S.O. 1970.
c. 409,
s. 50 (4),
amended

(2) The said section 50, as amended by the Statutes of Ontario, 1972, chapter 133, section 20, is further amended by adding thereto the following subsection:

s. 50,
amended

(4a) Notwithstanding subsection 4, the consent of the Minister of Revenue is not required to be attached to or endorsed on any deed, grant, conveyance, mortgage, assignment of mortgage or other instrument purporting to convey, transfer or assign any property that is property prescribed by the Minister of Revenue by regulations made under *The Succession Duty Act* to be property that may be conveyed, transferred or assigned without the consent of the Minister of Revenue.

Where
consent
of Minister
not required

R.S.O. 1970,
c. 449

(3) Subsection 9 of the said section 50 is repealed and the following substituted therefor:

s. 50 (9),
re-enacted

(9) Subsections 4 to 7 do not apply where the deceased person died prior to the 1st day of January, 1950.

Application
of subss. 4-7

8.—(1) Subsection 1 of section 140 of *The Land Titles Act*, being chapter 234 of the Revised Statutes of Ontario, 1970, is amended by striking out "and, in the case of the death of the registered owner of a charge where no such entry is being applied for but a cessation of the charge is tendered for registration, such cessation shall not be registered until the above consent is attached thereto or endorsed thereon" in the tenth, eleventh, twelfth, thirteenth and fourteenth lines.

R.S.O. 1970.
c. 234,
s. 140 (1),
amended

s. 140,
amended

(2) The said section 140 is amended by adding thereto the following subsection:

Where consent
of Minister
not required

(1a) Notwithstanding subsection 1, the consent of the Minister of Revenue is not required to be attached to or endorsed on the application for transmission of interest or application for entry in respect of any land, charge or interest that is prescribed by the Minister of Revenue by regulations made under *The Succession Duty Act* to be land or a charge or interest that may be conveyed, transferred or assigned without the consent of the Minister of Revenue.

R.S.O. 1970,
c. 449

s. 140 (2),
re-enacted

(3) Subsection 2 of the said section 140 is repealed and the following substituted therefor:

Saving

(2) Subsections 1 and 1a do not apply where the death of the registered owner occurred prior to the 1st day of January, 1950.

Commence-
ment

9.—(1) This Act, except sections 1, 2, 3, 4, 5 and 6, comes into force on the day it receives Royal Assent.

Idem

(2) Sections 1, 2, 3, 4, 5 and 6, shall be deemed to have come into force on the 20th day of April, 1977 and apply in respect of deceased persons dying on and after that date.

Short title

10. The short title of this Act is *The Succession Duty Amendment Act, 1977*.

BILL 7

An Act to amend
The Succession Duty Act

1st Reading

June 27th, 1977

2nd Reading

3rd Reading

THE HON. W. D. McKEOUGH
Treasurer of Ontario and
Minister of Economics and
Intergovernmental Affairs

(Government Bill)

1ST SESSION, 31ST LEGISLATURE, ONTARIO
26 ELIZABETH II, 1977

An Act to amend The Succession Duty Act

THE HON. W. D. McKEOUGH
Treasurer of Ontario and Minister of Economics and
Intergovernmental Affairs

(Reprinted as amended by the Committee of the Whole House)

TORONTO

PRINTED BY J. C. THATCHER, QUEEN'S PRINTER FOR ONTARIO

EXPLANATORY NOTES

GENERAL

In accordance with the Treasurer's Budget, the amendments proposed in this Bill provide that the duty-free threshold for estates is raised from \$250,000 to \$300,000. As well, the additional rate will not apply to receipts by an individual of \$300,000 or less. The amendment provides that capital gains tax arising from the deemed disposition at death provisions of the *Income Tax Act* (Canada) may be fully credited against succession duty payable, rather than deducted from aggregate value as a debt of the estate, at the election of the executor. Provision is made for release of new classes of property without the consent of the Minister of Revenue.

SECTION 1.—Subsections 1 and 2. The repeal of clauses *bb* and *cc* of subsections 1 and 5 of section 7 of the Act result in increasing the minimum value of the dutiable estate passing to the preferred and the collateral beneficiaries from \$250,000 to \$300,000.

Subsection 3. The amendment serves to increase the deduction allowed in computing the aggregate value of an estate from \$250,000 to \$300,000.

Subsection 4. The amendment alters the notch provision contained in section 7 (8) (c) (i) to increase the value to be deducted from the aggregate value of the estate from \$250,000 to \$300,000.

SECTION 2. The amendment enacts a new section to permit the executors of an estate to elect to have taxes payable under the *Income Tax Act* (Canada) in respect of certain deemed disposition on death treated as a credit against succession duty payable by each beneficiary. Taxes payable in respect of deemed dispositions under the *Income Tax Act* (Canada) will be disallowed as a debt of the estate in calculating the aggregate value. The amount of such taxes will be allocated as a credit against any succession duty payable by each beneficiary in proportion to that beneficiary's share of the estate to the extent of that beneficiary's liability for succession duty. There may be credited only that portion of such taxes that dutiable value bears to the total value of the estate and only to the extent of that beneficiary's liability for succession duty.

BILL 7

1977

An Act to amend The Succession Duty Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

- 1.—(1) Clause *bb* of subsection 1 of section 7 of *The Succession Duty Act*, being chapter 449 of the Revised Statutes of Ontario, 1970, as re-enacted by the Statutes of Ontario, 1975, chapter 14, section 1, is repealed. s. 7 (1) (*bb*),
repealed
- (2) Clause *cc* of subsection 5 of the said section 7, as re-enacted by the Statutes of Ontario, 1975, chapter 14, section 1, is repealed. s. 7 (5) (*cc*),
repealed
- (3) Clause *b* of subsection 7 of the said section 7, as enacted by the Statutes of Ontario, 1975, chapter 14, section 1, is repealed and the following substituted therefor: s. 7 (7) (*b*),
re-enacted

(*b*) \$300,000.
- (4) Subclause *i* of clause *c* of subsection 8 of the said section 7, as amended by the Statutes of Ontario, 1975, chapter 14, section 1, is further amended by striking out “\$250,000” in the amendment of 1975 and inserting in lieu thereof “\$300,000”. s. 7 (8) (*c*) (1),
amended

2. The said Act is amended by adding thereto the following section: s. 7a,
enacted

7a.—(1) Where,

Application

- (a) subsections 5, 5.1 and 5.2 of section 70 of the *Income Tax Act* (Canada) are applicable in respect of a deceased; and 1970-71,
c. 63 (Can.)
- (b) the executor so elects,

the provisions of this section apply.

Rules that
apply where
election
made under
subs. 1

(2) Where an executor has made a valid election under subsection 1 in the form and manner and at the times prescribed by the regulations, in computing the duty payable by a beneficiary under this Act, the following rules shall apply:

1. Allowance shall not be made under subsection 6 of section 3 for the amount of any tax on deemed dispositions of the deceased.
2. The amount of duty otherwise payable by each beneficiary under this Act shall be reduced by the lesser of,

(a) that proportion of the amount of tax on deemed dispositions of the deceased that,

(i) the elected dutiable value of all property situate in Ontario that passes on the death of the deceased to or for the benefit of the beneficiary, plus the elected dutiable value of all transmissions to the beneficiary, plus the elected dutiable value of all dispositions to the beneficiary that do not come within clause *g* of subsection 1 of section 5, bears to,

(ii) the elected aggregate value; and

(b) the amount of duty otherwise payable by the beneficiary under this Act.

How
elected
aggregate
value
computed

(3) For the purposes of this section, elected aggregate value and elected dutiable value shall be computed in the manner prescribed by the regulations.

Inter-
pretation

(4) In this section,

(a) "duty otherwise payable" means the duty levied on a beneficiary and on property passing on the death of the deceased to or for the benefit of that beneficiary determined in accordance with this Act as though paragraph 2 of subsection 2 did not apply;

(b) "tax on deemed dispositions of the deceased" means the prescribed proportion of tax payable under *The Income Tax Act*, being chapter 217 of the Revised Statutes of Ontario, 1970, and the *Income Tax Act* (Canada) in respect of the deceased for

SECTION 3. The amendment adds subsection 6*a* to section 10 of the Act and permits the classes of property that may be disposed of or transferred without the Minister's consent to be broadened by regulation.

SECTION 4. This amendment will enable the current Affidavit of Value and Relationship to be replaced by a simplified return of the estate. A return may also be filed by an executor or person administering the estate.

the taxation year, determined in accordance with those Acts, in which the deceased died, minus an amount equal to the amount of any payment deemed by subsection 6 of section 164 of the *Income Tax Act* (Canada) to have been made.

1970-71,
c. 63 (Can.)

3. Section 10 of the said Act, as amended by the Statutes of Ontario, 1976, chapter 20, section 4, is further amended by adding thereto the following subsection:

s. 10,
amended

(6a) Notwithstanding anything in this Act, any person or class of persons prescribed by the Minister by regulation may, without the consent of the Minister, deliver, assign, transfer or pay, or permit the delivery, assignment, transfer or payment of, any property or class of property prescribed by the Minister by regulation that is,

Where
no consent
necessary

(a) property in which the deceased had at the time of his death any beneficial interest; or

(b) property passing on the death of the deceased,

and that passes on the death of the deceased to or for the benefit of any person or class of persons prescribed by the Minister by regulation.

4. Section 13 of the said Act, as amended by the Statutes of Ontario, 1973, chapter 109, section 5, is repealed and the following substituted therefor:

s. 13,
re-enacted

13.—(1) Every person,

Filing
return

(a) who is the executor, or one of the executors of, the deceased acting in the administration of his estate; or

(b) to whom or for whose benefit any property situate in Ontario passes on the death of the deceased or to whom there is a transmission or to whom a disposition is made, any of which property, disposition or transmission is not included in a return made under this section by a person described in clause a or c; or

(c) who, not being an executor of the deceased, is acting in the administration of the estate of the deceased,

shall, within six months after the death of the deceased or within such further period as may be allowed by the Minister,

make and file with the Minister a return, in such form and containing such information as is prescribed by the Minister by regulation, setting forth,

- (d) an inventory of all the property passing on the death of the deceased and of all dispositions made by the deceased of which he has knowledge, and such inventory shall show the value of such property and dispositions; and
- (e) the names of all persons to whom or for whose benefit any property passes on the death of the deceased or to whom there is a transmission or to whom any disposition is made, their places of residence and the degree of relationship in which they stand to the deceased.

Additional
information

(2) Where the Minister considers it necessary, he may in writing demand from any person a statement or information or a return verified by affidavit or in the form of an affidavit deposing the facts known to the deponent concerning any matter or information relating to subsection 1 specified by the Minister in such demand.

Penalty

(3) Every person in Ontario who makes default in complying with subsection 1 or 2 may be required to pay to the Treasurer as a penalty the sum of \$10 for each day during which the default continues.

s. 14 (2),
amended

5. Subsection 2 of section 14 of the said Act is amended by striking out "an affidavit purporting to be the affidavit required by subsection 1 or 2" in the eighth and ninth lines and inserting in lieu thereof "a return purporting to be the return required by subsection 1".

s. 44,
amended

6.—(1) Section 44 of the said Act, as amended by the Statutes of Ontario, 1976, chapter 20, section 8, is further amended by striking out clause *a* and by adding thereto the following clauses:

- (g) prescribing the form and manner and the times at which an election under section 7*a* shall be made;
- (h) prescribing the terms and conditions and providing for the method of the calculations for the purposes of section 7*a*.

s. 44
amended

(2) The said section 44 is further amended by adding thereto the following subsections:

SECTION 5. Complementary to section 4 of the Bill.

SECTION 6.—Subsection 1. This amendment adds to the regulation-making power of the Lieutenant Governor in Council those things prescribed by the Act to be done by regulation. Provision is made for the form and manner of calculation to determine the credit against succession duty and the manner of election provided for in section 7*a*. The regulations, if they so provide, will have retroactive effect. The provisions of section 6 are subject to passage of section 2 of this Bill.

Subsection 2. This amendment gives the Minister authority to make regulations where the Act contemplates regulations and to prescribe forms.

Subsection 3. This amendment authorizes retroactive regulations to be made.

SECTION 7.—Subsection 1. Subsection 4 of section 50 of *The Registry Act* is amended to dispense with the Minister's consent for any discharge of mortgage.

Subsection 2. The new subsection 4a is added to section 50 to dispense with the Minister's consent for the registration of conveyances of property for which the Minister's consent is not required under *The Succession Duty Act*.

Subsection 3. The amendment to subsection 9 of section 50 is to up-date the requirement for the registration of consents by dispensing with the Minister's consents for registration of conveyances in respect of deaths occurring prior to January 1, 1950.

SECTION 8.—Subsections 1, 2 and 3. Section 140 of *The Land Titles Act* is amended to parallel the amendments to *The Registry Act* made by section 7 of the Bill.

(2) The Minister may make regulations,

Regulations
by Minister

- (a) prescribing, defining or determining anything that the Minister is permitted or required by this Act to prescribe, define or determine;
- (b) prescribing any form required by this Act or the regulations or that, in his opinion, will assist in the administration of this Act, and prescribing how and by whom any form shall be completed and what information it shall contain.

(3) A regulation made under subsection 1 or 2 may be made effective retroactively to a date not earlier than the 20th day of April, 1977.

Regulation
may be
retroactive

7.—(1) Subsection 4 of section 50 of *The Registry Act*, being chapter 409 of the Revised Statutes of Ontario, 1970, is amended by striking out “discharge of mortgage” in the third and fourth lines.

R.S.O. 1970,
c. 409,
s. 50 (4),
amended

(2) The said section 50, as amended by the Statutes of Ontario, 1972, chapter 133, section 20, is further amended by adding thereto the following subsection:

s. 50,
amended

(4a) Notwithstanding subsection 4, the consent of the Minister of Revenue is not required to be attached to or endorsed on any deed, grant, conveyance, mortgage, assignment of mortgage or other instrument purporting to convey, transfer or assign any property that is property prescribed by the Minister of Revenue by regulations made under *The Succession Duty Act* to be property that may be conveyed, transferred or assigned without the consent of the Minister of Revenue.

Where
consent
of Minister
not required

R.S.O. 1970,
c. 449

(3) Subsection 9 of the said section 50 is repealed and the following substituted therefor:

s. 50 (9),
re-enacted

(9) Subsections 4 to 7 do not apply where the deceased person died prior to the 1st day of January, 1950.

Application
of subss. 4-7

8.—(1) Subsection 1 of section 140 of *The Land Titles Act*, being chapter 234 of the Revised Statutes of Ontario, 1970, is amended by striking out “and, in the case of the death of the registered owner of a charge where no such entry is being applied for but a cessation of the charge is tendered for registration, such cessation shall not be registered until the above consent is attached thereto or endorsed thereon” in the tenth, eleventh, twelfth, thirteenth and fourteenth lines.

R.S.O. 1970,
c. 234,
s. 140 (1),
amended

s. 140,
amended

- (2) The said section 140 is amended by adding thereto the following subsection:

Where consent
of Minister
not required

(1a) Notwithstanding subsection 1, the consent of the Minister of Revenue is not required to be attached to or endorsed on the application for transmission of interest or application for entry in respect of any land, charge or interest that is prescribed by the Minister of Revenue by regulations made under *The Succession Duty Act* to be land or a charge or interest that may be conveyed, transferred or assigned without the consent of the Minister of Revenue.

R.S.O. 1970,
c. 449

s. 140 (2),
re-enacted

- (3) Subsection 2 of the said section 140 is repealed and the following substituted therefor:

Saving

(2) Subsections 1 and 1a do not apply where the death of the registered owner occurred prior to the 1st day of January, 1950.

Commence-
ment

- 9.—(1) This Act, except sections 1, 2, 3, 4, 5 and 6, comes into force on the day it receives Royal Assent.

Idem

- (2) Sections 1, 2, 3, 4, 5 and 6, shall be deemed to have come into force on the 20th day of April, 1977 and apply in respect of deceased persons dying on and after that date.

Short title

10. The short title of this Act is *The Succession Duty Amendment Act, 1977*.

An Act to amend
The Succession Duty Act

1st Reading

June 27th, 1977

2nd Reading

June 30th, 1977

3rd Reading

THE HON. W. D. McKEOUGH
Treasurer of Ontario and
Minister of Economics and
Intergovernmental Affairs

(Reprinted as amended by the
Committee of the Whole House)

1ST SESSION, 31ST LEGISLATURE, ONTARIO
26 ELIZABETH II, 1977

An Act to amend The Succession Duty Act

THE HON. W. D. McKEOUGH
Treasurer of Ontario and Minister of Economics and
Intergovernmental Affairs



TORONTO

PRINTED BY J. C. THATCHER, QUEEN'S PRINTER FOR ONTARIO

An Act to amend The Succession Duty Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

- 1.—(1) Clause *bb* of subsection 1 of section 7 of *The Succession Duty Act*, being chapter 449 of the Revised Statutes of Ontario, 1970, as re-enacted by the Statutes of Ontario, 1975, chapter 14, section 1, is repealed. s. 7 (1) (*bb*),
repealed
- (2) Clause *cc* of subsection 5 of the said section 7, as re-enacted by the Statutes of Ontario, 1975, chapter 14, section 1, is repealed. s. 7 (5) (*cc*),
repealed
- (3) Clause *b* of subsection 7 of the said section 7, as enacted by the Statutes of Ontario, 1975, chapter 14, section 1, is repealed and the following substituted therefor: s. 7 (7) (*b*),
re-enacted

(*b*) \$300,000.
- (4) Subclause *i* of clause *c* of subsection 8 of the said section 7, as amended by the Statutes of Ontario, 1975, chapter 14, section 1, is further amended by striking out “\$250,000” in the amendment of 1975 and inserting in lieu thereof “\$300,000”. s. 7 (8) (*c*) (*i*),
amended

2. The said Act is amended by adding thereto the following section: s. 7*a*,
enacted

7*a*.—(1) Where,

Application

(*a*) subsections 5, 5.1 and 5.2 of section 70 of the *Income Tax Act* (Canada) are applicable in respect of a deceased; and 1970-71,
c. 63 (Can.)

(*b*) the executor so elects,

the provisions of this section apply.

Rules that
apply where
election
made under
subs. 1

(2) Where an executor has made a valid election under subsection 1 in the form and manner and at the times prescribed by the regulations, in computing the duty payable by a beneficiary under this Act, the following rules shall apply:

1. Allowance shall not be made under subsection 6 of section 3 for the amount of any tax on deemed dispositions of the deceased.

2. The amount of duty otherwise payable by each beneficiary under this Act shall be reduced by the lesser of,

(a) that proportion of the amount of tax on deemed dispositions of the deceased that,

(i) the elected dutiable value of all property situate in Ontario that passes on the death of the deceased to or for the benefit of the beneficiary, plus the elected dutiable value of all transmissions to the beneficiary, plus the elected dutiable value of all dispositions to the beneficiary that do not come within clause g of subsection 1 of section 5, bears to,

(ii) the elected aggregate value; and

(b) the amount of duty otherwise payable by the beneficiary under this Act.

How
elected
aggregate
value
computed

(3) For the purposes of this section, elected aggregate value and elected dutiable value shall be computed in the manner prescribed by the regulations.

Interpre-
tation

(4) In this section,

(a) "duty otherwise payable" means the duty levied on a beneficiary and on property passing on the death of the deceased to or for the benefit of that beneficiary determined in accordance with this Act as though paragraph 2 of subsection 2 did not apply;

(b) "tax on deemed dispositions of the deceased" means the prescribed proportion of tax payable under *The Income Tax Act*, being chapter 217 of the Revised Statutes of Ontario, 1970, and the *Income Tax Act* (Canada) in respect of the deceased for

the taxation year, determined in accordance with those Acts, in which the deceased died, minus an amount equal to the amount of any payment deemed by subsection 6 of section 164 of the *Income Tax Act* (Canada) to have been made.

1970-71,
c. 63 (Can.)

3. Section 10 of the said Act, as amended by the Statutes of Ontario, 1976, chapter 20, section 4, is further amended by adding thereto the following subsection:

(6a) Notwithstanding anything in this Act, any person or class of persons prescribed by the Minister by regulation may, without the consent of the Minister, deliver, assign, transfer or pay, or permit the delivery, assignment, transfer or payment of, any property or class of property prescribed by the Minister by regulation that is,

Where
no consent
necessary

(a) property in which the deceased had at the time of his death any beneficial interest; or

(b) property passing on the death of the deceased,

and that passes on the death of the deceased to or for the benefit of any person or class of persons prescribed by the Minister by regulation.

4. Section 13 of the said Act, as amended by the Statutes of Ontario, 1973, chapter 109, section 5, is repealed and the following substituted therefor:

s. 13,
re-enacted

13.—(1) Every person,

Filing
return

(a) who is the executor, or one of the executors of, the deceased acting in the administration of his estate; or

(b) to whom or for whose benefit any property situate in Ontario passes on the death of the deceased or to whom there is a transmission or to whom a disposition is made, any of which property, disposition or transmission is not included in a return made under this section by a person described in clause *a* or *c*; or

(c) who, not being an executor of the deceased, is acting in the administration of the estate of the deceased,

shall, within six months after the death of the deceased or within such further period as may be allowed by the Minister,

make and file with the Minister a return, in such form and containing such information as is prescribed by the Minister by regulation, setting forth,

- (d) an inventory of all the property passing on the death of the deceased and of all dispositions made by the deceased of which he has knowledge, and such inventory shall show the value of such property and dispositions; and
- (e) the names of all persons to whom or for whose benefit any property passes on the death of the deceased or to whom there is a transmission or to whom any disposition is made, their places of residence and the degree of relationship in which they stand to the deceased.

Additional
information

(2) Where the Minister considers it necessary, he may in writing demand from any person a statement or information or a return verified by affidavit or in the form of an affidavit deposing the facts known to the deponent concerning any matter or information relating to subsection 1 specified by the Minister in such demand.

Penalty

(3) Every person in Ontario who makes default in complying with subsection 1 or 2 may be required to pay to the Treasurer as a penalty the sum of \$10 for each day during which the default continues.

s. 14 (2),
amended

5. Subsection 2 of section 14 of the said Act is amended by striking out "an affidavit purporting to be the affidavit required by subsection 1 or 2" in the eighth and ninth lines and inserting in lieu thereof "a return purporting to be the return required by subsection 1".

s. 44,
amended

6.—(1) Section 44 of the said Act, as amended by the Statutes of Ontario, 1976, chapter 20, section 8, is further amended by striking out clause *a* and by adding thereto the following clauses:

- (g) prescribing the form and manner and the times at which an election under section 7*a* shall be made;
- (h) prescribing the terms and conditions and providing for the method of the calculations for the purposes of section 7*a*.

s. 44
amended

(2) The said section 44 is further amended by adding thereto the following subsections:

- (2) The Minister may make regulations,

Regulations
by Minister

- (a) prescribing, defining or determining anything that the Minister is permitted or required by this Act to prescribe, define or determine;
- (b) prescribing any form required by this Act or the regulations or that, in his opinion, will assist in the administration of this Act, and prescribing how and by whom any form shall be completed and what information it shall contain.

(3) A regulation made under subsection 1 or 2 may be made effective retroactively to a date not earlier than the 20th day of April, 1977.

Regulation
may be
retroactive

- 7.—(1) Subsection 4 of section 50 of *The Registry Act*, being chapter 409 of the Revised Statutes of Ontario, 1970, is amended by striking out "discharge of mortgage" in the third and fourth lines.

R.S.O. 1970,
c. 409,
s. 50 (4),
amended

- (2) The said section 50, as amended by the Statutes of Ontario, 1972, chapter 133, section 20, is further amended by adding thereto the following subsection:

s. 50,
amended

(4a) Notwithstanding subsection 4, the consent of the Minister of Revenue is not required to be attached to or endorsed on any deed, grant, conveyance, mortgage, assignment of mortgage or other instrument purporting to convey, transfer or assign any property that is property prescribed by the Minister of Revenue by regulations made under *The Succession Duty Act* to be property that may be conveyed, transferred or assigned without the consent of the Minister of Revenue.

Where
consent
of Minister
not required

R.S.O. 1970,
c. 449

- (3) Subsection 9 of the said section 50 is repealed and the following substituted therefor:

s. 50 (9),
re-enacted

(9) Subsections 4 to 7 do not apply where the deceased person died prior to the 1st day of January, 1950.

Application
of subss. 4-7

- 8.—(1) Subsection 1 of section 140 of *The Land Titles Act*, being chapter 234 of the Revised Statutes of Ontario, 1970, is amended by striking out "and, in the case of the death of the registered owner of a charge where no such entry is being applied for but a cessation of the charge is tendered for registration, such cessation shall not be registered until the above consent is attached thereto or endorsed thereon" in the tenth, eleventh, twelfth, thirteenth and fourteenth lines.

R.S.O. 1970,
c. 234,
s. 140 (1),
amended

s. 140,
amended

- (2) The said section 140 is amended by adding thereto the following subsection:

Where consent
of Minister
not required

(1a) Notwithstanding subsection 1, the consent of the Minister of Revenue is not required to be attached to or endorsed on the application for transmission of interest or application for entry in respect of any land, charge or interest that is prescribed by the Minister of Revenue by regulations made under *The Succession Duty Act* to be land or a charge or interest that may be conveyed, transferred or assigned without the consent of the Minister of Revenue.

R.S.O. 1970,
c. 449

s. 140 (2),
re-enacted

- (3) Subsection 2 of the said section 140 is repealed and the following substituted therefor:

Saving

(2) Subsections 1 and 1a do not apply where the death of the registered owner occurred prior to the 1st day of January, 1950.

Commence-
ment

- 9.—(1) This Act, except sections 1, 2, 3, 4, 5 and 6, comes into force on the day it receives Royal Assent.

Idem

- (2) Sections 1, 2, 3, 4, 5 and 6, shall be deemed to have come into force on the 20th day of April, 1977 and apply in respect of deceased persons dying on and after that date.

Short title

10. The short title of this Act is *The Succession Duty Amendment Act, 1977*.

An Act to amend
The Succession Duty Act

1st Reading

June 27th, 1977

2nd Reading

June 30th, 1977

3rd Reading

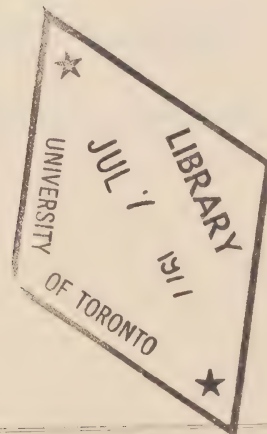
June 30th, 1977

THE HON. W. D. McKEOUGH
Treasurer of Ontario and
Minister of Economics and
Intergovernmental Affairs

1ST SESSION, 31ST LEGISLATURE, ONTARIO
26 ELIZABETH II, 1977

**An Act to authorize the Raising of Money on the Credit
of the Consolidated Revenue Fund**

THE HON. W. D. McKEOUGH
Treasurer of Ontario and Minister of Economics and
Intergovernmental Affairs



TORONTO

PRINTED BY J. C. THATCHER, QUEEN'S PRINTER FOR ONTARIO

EXPLANATORY NOTE

The Bill provides authority for the borrowing of moneys not otherwise authorized by any other Act.

The principal borrowings authorized under *The Ontario Loan Act* in recent years have been.

1. Borrowings from the Canada Pension Plan.
2. The Ontario Treasury Bill program.
3. CMHC Waste Control Loans.
4. Federal-Provincial-Municipal Loan programs.

The authorization in the Bill to raise by way of loan up to \$1 billion is intended to cover the following estimated borrowing requirements:

1. Canada Pension Plan borrowings through to June, 1978.
2. Repayment of Ontario debt maturities.
3. Interim financing, as necessary.

BILL 8

1977

An Act to authorize the Raising of Money on the Credit of the Consolidated Revenue Fund

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1.—(1) The Lieutenant Governor in Council is hereby authorized to raise from time to time by way of loan in any manner provided by *The Financial Administration Act* such sum or sums of money as are considered necessary for discharging any indebtedness or obligation of Ontario, for making any payments authorized or required by any Act to be made out of the Consolidated Revenue Fund or for reimbursing the Consolidated Revenue Fund for any moneys expended for any of such purposes, provided that the principal amount of any securities issued and temporary loans raised under the authority of this Act shall not exceed in the aggregate \$1,000,000,000.

Loans up to
\$1,000,000,000
R.S.O. 1970,
c. 166

(2) The sum or sums of money authorized to be raised by subsection 1 for the purposes mentioned therein shall be in addition to all sums of money authorized to be raised by way of loan under any other Act.

2. This Act comes into force on the day it receives Royal Assent.

Idem
Commence-
ment

3. The short title of this Act is *The Ontario Loan Act, 1977*.

Short title

An Act to authorize the Raising of Money
on the Credit of the Consolidated Revenue
Fund

1st Reading

June 27th, 1977

2nd Reading

3rd Reading

THE HON. W. D. McKEOUGH
Treasurer of Ontario and
Minister of Economics and
Intergovernmental Affairs

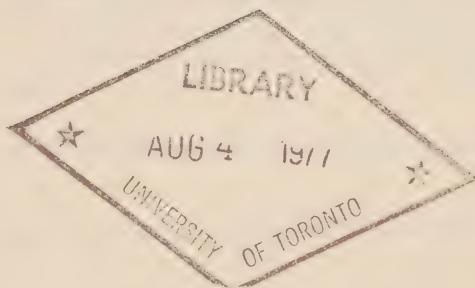
(Government Bill)

BILL 8

1ST SESSION, 31ST LEGISLATURE, ONTARIO
26 ELIZABETH II, 1977

**An Act to authorize the Raising of Money on the Credit
of the Consolidated Revenue Fund**

THE HON. W. D. McKEOUGH
Treasurer of Ontario and Minister of Economics and
Intergovernmental Affairs



TORONTO

PRINTED BY J. C. THATCHER, QUEEN'S PRINTER FOR ONTARIO

BILL 8

1977

An Act to authorize the Raising of Money on the Credit of the Consolidated Revenue Fund

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(2) The sum or sums of money authorized to be raised by subsection 1 for the purposes mentioned therein shall be in addition to all sums of money authorized to be raised by way of loan under any other Act. ^{Idem}

2. This Act comes into force on the day it receives Royal Assent. ^{Commencement}

3. The short title of this Act is *The Ontario Loan Act, 1977*. ^{Short title}

An Act to authorize the Raising of Money
on the Credit of the Consolidated Revenue
Fund

1st Reading

June 27th, 1977

2nd Reading

June 29th, 1977

3rd Reading

June 30th, 1977

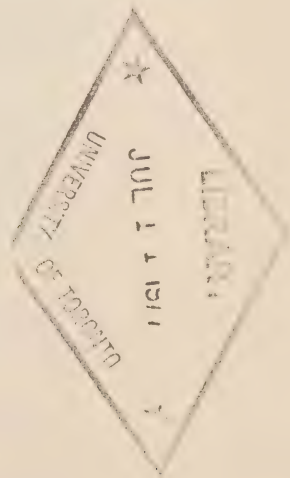
THE HON. W. D. McKEOUGH
Treasurer of Ontario and
Minister of Economics and
Intergovernmental Affairs

1ST SESSION, 31ST LEGISLATURE, ONTARIO
26 ELIZABETH II, 1977

Government
Publications

**An Act respecting the
Registration of Venture Investment Corporations**

THE HON. W. D. McKEOUGH
Treasurer of Ontario and Minister of Economics and
Intergovernmental Affairs



TORONTO

PRINTED BY J. C. THATCHER, QUEEN'S PRINTER FOR ONTARIO

EXPLANATORY NOTE

The purpose of this Bill is to provide a means of mobilizing new sources of risk capital and managerial assistance for small businesses. Ancillary amendments to *The Corporations Tax Act, 1972* will be introduced later this year.

For taxation purposes, a corporate investor investing in a registered venture investment corporation will be permitted to deduct 250 per cent of the investment from its taxable income. This deduction may be carried forward indefinitely against future income. Upon disposition of the shares in the venture investment corporation on transfer or redemption of such shares or on revocation of registration of the venture investment corporation, 250 per cent of the proceeds of disposition will be included in the investor's income for that year. Proceeds in excess of the original investment will be taxed in the hands of the recipient as capital gains. Capital losses will not be allowed since the deferred taxes on the loss portion of the investment will not be recovered. Venture investment corporations will be subject, in the usual manner, to income and capital taxes.

The major provisions of the Bill are as follows:

1. A system of registration for venture investment corporations is established under the Ministry of Consumer and Commercial Relations.
2. A corporation incorporated under *The Business Corporations Act* may be registered as a venture investment corporation by filing a proposal containing prescribed information. A corporation is entitled to registration unless it fails to comply with the provisions of the Bill.
3. Where a corporation is refused registration or registration is proposed to be revoked, the corporation has the right of appeal to the Ontario Securities Commission.
4. A corporation may be registered as a venture investment corporation only if,
 - (a) the corporation has never previously carried on business;
 - (b) a majority of the directors are resident Canadians;
 - (c) the corporation has objects only to assist in the development of small businesses by,
 - (i) providing capital through the acquisition and holding of shares and notes, bonds, debentures or similar applications, and
 - (ii) providing business and managerial expertise to small businesses;
 - (d) the corporation has issued and outstanding capital of the value of \$250,000 or more; and
 - (e) the corporate name includes the words "venture investment corporation".

5. A venture investment corporation is required to maintain a requisite level of issued and outstanding capital. At the end of the fourth year of its registration and thereafter, a venture investment corporation must maintain at least \$750,000 of issued and outstanding capital.
6. Prior to the end of its first fiscal year, a venture investment corporation must have invested and at all times maintain 60 per cent or more of its capital in "eligible investments". Prior to the end of its second fiscal year and thereafter, such a corporation must have invested and at all times maintain 80 per cent or more of its capital in "eligible investments".
7. An "eligible investment" is one in which all of the following criteria are met:
 - (a) the investment must be in a small business that meets the prescribed limits of number of employees and amount of assets and profits;
 - (b) 90 per cent or more of the assets of the small business are situate in Ontario and 90 per cent or more of its wages and salaries are paid to residents of Ontario;
 - (c) the investment must not be used by the small business for the purpose of relending, investment in land, or reinvestment outside Canada;
 - (d) the venture investment corporation must not hold more than 40 per cent of the equity shares of the small business; and
 - (e) the small business must meet Canadian control requirements.
8. A small business is not Canadian controlled if the total number of equity shares owned by non-residents exceeds 25 per cent of the total number of issued and outstanding equity shares or if any single non-resident owns 10 per cent or more of the total number of issued and outstanding equity shares.
9. Once a small business ceases to be an eligible investment by reason of moving outside of the small business criteria or failing to meet the Canadian control test, the investment will be considered to remain eligible for a period of two years.
10. All investments made by a venture investment corporation must be at arm's-length of its shareholders, officers and directors. Provision is made to ensure that the venture investment corporation will not be able to invest in a subsidiary, affiliate, related person or holding corporation of itself or of any investor in the venture investment corporation or of any officer or director of the venture investment corporation.
11. In lending money to a small business, a venture investment corporation may not require the personal guarantee of or security from any individual.
12. A venture investment corporation is not permitted to offer its securities to the public.
13. Every venture investment corporation, notwithstanding that it may otherwise be exempt under the provisions of *The Business*

Corporations Act, is required to appoint an auditor and to keep the financial statements required by *The Business Corporations Act*.

14. Financial statements of a venture investment corporation are required to be kept on a corporate fiscal year basis. These financial statements must be filed with the Minister.
15. A venture investment corporation is required to keep a record of all amounts of money or other consideration received from any small business, including the amount, if any, received by the venture investment corporation as fees for providing business and management counselling.
16. A venture investment corporation is required to supply the Minister with particulars of any purchase and sale of securities.
17. The Minister is given authority to examine the books and records of a venture investment corporation.
18. The Bill contains a prohibition against disclosure of any information obtained from a venture investment corporation.

BILL 9

1977

An Act respecting the Registration of Venture Investment Corporations

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1.—(1) In this Act,

Interpre-
tation

- (a) “articles of incorporation” or “articles” means the original or restated articles of incorporation, articles of amalgamation, letters patent, supplementary letters patent, a special Act and any other instrument by which a corporation is incorporated, and includes any amendments thereto;
- (b) “associate”, where used to indicate a relationship with any person, means,
 - (i) any body corporate of which such person beneficially owns, directly or indirectly, equity shares carrying more than 10 per cent of the voting rights attached to all equity shares of the body corporate for the time being,
 - (ii) any partner of that person acting by or for the partnership of which they are both partners,
 - (iii) any trust or estate in which such person has a substantial beneficial interest or in respect of which such person serves as trustee or in a similar capacity,
 - (iv) any spouse, parent, son or daughter, brother or sister of that person, or
 - (v) any relative of such person or of his spouse, other than a relative referred to in subclause iv, who has the same home as such person;

- (c) "body corporate" means any body corporate whether or not it is a corporation to which *The Business Corporations Act* applies;
- (d) "certified copy" means,
 - (i) in relation to a document of a body corporate, a copy of the document certified to be a true copy under the seal of the body corporate and signed by an officer thereof,
 - (ii) in relation to a document issued by a court, a copy of the document certified to be a true copy under the seal of the court and signed by the registrar or clerk thereof,
 - (iii) in relation to a document in the custody of the Ministry, a copy of the document certified to be a true copy under the seal of the Minister and signed by the Minister or by such officer of the Ministry as is designated by the regulations;
- (e) "corporation" means a body corporate with share capital to which *The Business Corporations Act* applies;
- (f) "debt obligation" means a bond, debenture, note or other similar obligation of a body corporate, whether secured or unsecured;
- (g) "director" means a member of the board of directors of a body corporate or any other individual who performs functions for the body corporate similar to those normally performed by an individual occupying the position of director;
- (h) "eligible investment" means an investment in a small business that complies with section 10;
- (i) "equity share" means any share of any class of shares of a body corporate carrying voting rights under all circumstances and any share of any class of shares carrying voting rights by reason of the occurrence of any contingency that has occurred and is continuing;
- (j) "investment" means the purchase or acquisition from a small business by a venture investment corporation of the securities issued by that small business;

- (*k*) “land” includes land and any estate, right or interest therein, a leasehold interest or estate, the interest of an optionee, the interest of a purchaser under an agreement to sell land or goodwill attributable to the location of land or to the existence thereon of any building or fixture, and fixtures;
- (*l*) “Minister” means the Minister of Consumer and Commercial Relations or such other member of the Executive Council to whom the administration of this Act is assigned;
- (*m*) “Ministry” means the Ministry of the Minister;
- (*n*) “officer” means the chairman or any vice-chairman of the board of directors, the president, any vice-president, the secretary, any assistant secretary, the treasurer, any assistant treasurer, the general manger, or any other person designated an officer by by-law or resolution of the directors or any other individual who performs functions for the body corporate similar to those normally performed by an individual occupying any such office;
- (*o*) “prescribed” means prescribed by the regulations;
- (*p*) “register” means the register under this Act;
- (*q*) “regulations” means the regulations made under this Act;
- (*r*) “related person”, where used to indicate a relationship with any person, means,
 - (i) any spouse, parent, son or daughter, brother or sister of that person,
 - (ii) any relative of such person or of his spouse, other than a relative referred to in subclause i, who has the same home as such person, or
 - (iii) any body corporate of which such person and any of the persons referred to in subclause i or ii or the partner or employer of such person, either alone or in combination beneficially owns, directly or indirectly, equity shares carrying more than 50 per cent of the voting rights attached to all equity shares of a body corporate for the time being outstanding;

- (s) "resident Canadian" means an individual who is a Canadian citizen or has been lawfully admitted to Canada for permanent residence and who is ordinarily resident in Canada;
- (t) "security" means any share of any class of shares or any debt obligation of a body corporate;
- (u) "small business" means a body corporate having the number of employees and the amount of assets and profits that fall within the prescribed limits;
- (v) "Tribunal" means the Ontario Securities Commission;
- (w) "venture investment corporation" means a corporation registered under this Act.

Interpre-
tation:
subsidiary
body
corporate

(2) For the purposes of this Act, a body corporate shall be deemed to be a subsidiary of another body corporate if, but only if,

(a) it is controlled by,

(i) that other,

(ii) that other and one or more bodies corporate each of which is controlled by that other, or

(iii) two or more bodies corporate each of which is controlled by that other; or

(b) it is a subsidiary of a body corporate that is that other's subsidiary.

holding
body
corporate

(3) For the purposes of this Act, a body corporate shall be deemed to be another's holding body corporate if, but only if, that other is its subsidiary.

affiliated
body
corporate

(4) For the purposes of this Act, one body corporate shall be deemed to be affiliated with another body corporate if, but only if, one of them is the subsidiary of the other or both are subsidiaries of the same body corporate or each of them is controlled by the same person.

Control

(5) Unless otherwise prescribed, a body corporate shall be deemed to be controlled by another person or by two or more bodies corporate if, but only if,

- (a) shares of the first-mentioned body corporate carrying more than 50 per cent of the votes for the election of directors are held, other than by way of security only, by or for the benefit of such other person or by or for the benefit of such other bodies corporate; and
- (b) the votes carried by such shares are sufficient if exercised to elect a majority of the board of directors of the first-mentioned body corporate.

(6) In calculating the total number of equity shares of a body corporate beneficially owned or controlled, for the purposes of this Act, the total number shall be calculated as the total of all the shares actually owned or controlled, but each share that carries the right to more than one vote shall be calculated as the number of shares equalling the total number of votes carried.

Calculation
of total
number of
equity
shares

(7) In determining the number of shareholders of a body corporate, for the purposes of this Act, two or more persons holding the same share or shares jointly shall be counted as one shareholder.

Number of
shareholders

(8) For the purpose of determining whether or not a body corporate is a small business, there shall be taken into account the number of employees and the amount of assets and profits of any affiliate of such body corporate.

Deter-
mination
of small
business

2.—(1) Where all the shares of a corporation are with par value, its issued and outstanding capital shall be expressed in Canadian or other currency, or partly in one currency and partly in another, and is an amount equal to the total of the products of the number of such issued and outstanding shares of each class multiplied by the par value thereof less such decreases in the issued and outstanding capital as from time to time have been effected by the corporation in accordance with *The Business Corporations Act*.

Issued
capital:
par value
shares

R.S.O. 1970,
c. 53

(2) Where the shares of a corporation are without par value or where part of its shares are with par value and part are without par value, its issued and outstanding capital shall be expressed in Canadian or other currency, or partly in one currency and partly in another, and is an amount equal to the total of the products of the number of issued and outstanding shares of each class with par value multiplied by the par value thereof, together with the amount of the consideration for which the shares without par value from time to time outstanding were issued and together with such amounts as from time to time by law of the cor-

no par
value
shares

R.S.O. 1970,
c. 53

poration may be transferred thereto and less such decreases in the issued and outstanding capital as from time to time have been effected by the corporation in accordance with *The Business Corporations Act*.

REGISTER

Register

3.—(1) The Minister shall maintain a register of venture investment corporations in which he shall list all corporations registered under this Act.

Delegation
by Minister

(2) The Minister may delegate in writing any of his duties or powers under this Act to any public servant in the Ministry.

REGISTRATION

Registration

4.—(1) A corporation may apply to be registered under this Act by delivering to the Minister a proposal in duplicate.

Contents of
proposal

(2) A proposal shall set out:

1. The name of the corporation.
2. The location of the head office of the corporation in Ontario, including the street and number, if any.
3. The authorized capital, the classes of shares, if any, into which it is to be divided, the number of shares in each class, and the par value of each share, or, where the shares are without par value, the consideration, if any, exceeding which each share may not be issued or the aggregate consideration, if any, exceeding which all other shares of each class may not be issued.
4. The issued capital of each class of shares, including the aggregate consideration therefor.
5. The amounts and kinds of debt obligations, if any, issued by the corporation.
6. The number of directors of the corporation and the names in full and the residence addresses of each, giving the street and number, if any.
7. The names in full of the officers of the corporation and the residence addresses of each, giving the street and number, if any.
8. Any other matter prescribed to be set out in the proposal.

(3) A proposal shall be accompanied by a certified copy of the corporation's articles of incorporation. Articles of incorporation

(4) The proposal shall be executed under the seal of the corporation and signed by two officers or one director and one officer of the corporation and certified by affidavit of one of the officers or directors signing the proposal. Execution of proposal

5.—(1) No corporation shall be registered under this Act unless, Conditions of registration

- (a) the corporation has never previously carried on business;
- (b) a majority of the directors on the board of directors are resident Canadians;
- (c) the corporation has objects only to assist in the development of small businesses by,
 - (i) providing capital through the acquisition and holding of shares and notes, bonds, debentures or similar obligations, and
 - (ii) providing business and managerial expertise to small businesses;
- (d) the corporation has issued and outstanding capital of a value of \$250,000 or more; and
- (e) the corporate name includes the words "venture investment corporation".

(2) A venture investment corporation shall at all times comply with the provisions of clauses *b*, *c* and *e* of subsection 1. Continuing conditions

(3) No corporation, association, partnership or individual not being a corporation registered under this Act shall use in Ontario, without the consent of the Minister, a name that includes the words "venture investment corporation" or any abbreviation or derivation thereof, whether or not the word, abbreviation or derivation is used in or in connection with the name. Use of "venture investment corporation"

6.—(1) Subject to subsection 4, a corporation is entitled to registration by the Minister except where, Registration

- (a) the applicant fails to comply with section 4 or 5, as the case may be; or

- (b) the applicant fails to file the material required by this Act or the regulations.

Refusal to
register

- (2) Subject to section 8, the Minister may refuse to register a corporation where in the Minister's opinion the applicant is disentitled to registration under subsection 1 of this section.

Revocation of
registration

- (3) Subject to section 8, the Minister may revoke a registration where the registrant fails to comply with any provision of this Act or the regulations.

Minister
may suspend
further
registra-
tions

- (4) Where the Minister is of the opinion that the number of corporations registered under this Act is sufficient to meet the objectives of this Act or where he is of the opinion that it is in the public interest to do so, the Minister may, subject to the approval of the Lieutenant Governor in Council, by order, suspend the further registration of corporations under this Act for such period of time as is specified in the order.

Registration

7. If a corporation complies with sections 4 and 5, the Minister shall, when all prescribed fees have been paid,

- (a) endorse on each duplicate of the proposal the word "Registered" and the day, month and year of the registration thereof;
- (b) file one of the duplicates in his office;
- (c) place the name of the corporation in the register of venture investment corporations; and
- (d) issue to the registrants a certificate of registration to which he shall affix the other duplicate.

Notice of
proposal to
refuse or
revoke

- 8.—(1) Where the Minister proposes to refuse to grant or proposes to revoke a registration, he shall serve notice of his proposal, together with written reasons therefor, on the applicant or registrant.

Notice
requiring
hearing

- (2) A notice under subsection 1 shall inform the applicant or registrant that he is entitled to a hearing by the Tribunal if he mails or delivers, within fifteen days after the notice under subsection 1 is served on him, notice in writing requiring a hearing to the Minister and the Tribunal, and he may so require such a hearing.

Powers of
Minister
where no
hearing

- (3) Where an applicant or registrant does not require a hearing by the Tribunal in accordance with subsection 2,

the Minister may carry out the proposal stated in his notice under subsection 1.

(4) Where an applicant or registrant requires a hearing ^{Powers of Tribunal where hearing} by the Tribunal in accordance with subsection 2, the Tribunal shall appoint a time for and hold the hearing and, on application made at the hearing, may by order direct the Minister to carry out his proposal or refrain from carrying out his proposal and to take such action as the Tribunal considers the Minister ought to take in accordance with this Act and the regulations, and for such purposes the Tribunal may substitute its opinion for that of the Minister.

(5) The Tribunal may attach such terms and conditions ^{Conditions of order} to its order or to the registration as it considers proper to give effect to the purposes of this Act.

(6) The Minister, the applicant or the registrant who has ^{Parties} required the hearing and such other persons as the Tribunal may specify are parties to the proceedings before the Tribunal under this section.

(7) Notwithstanding subsection 1, the Minister may cancel ^{Voluntary cancellation} a registration upon the request in writing of the registrant in the prescribed form surrendering its registration.

(8) Notwithstanding that an applicant or registrant appeals ^{Order effective, stay} from an order of the Tribunal, the order takes effect immediately, but the Tribunal may grant a stay until disposition of the appeal.

9.—(1) In each fiscal year, a venture investment corporation shall maintain issued and outstanding capital of a value that is not less than the requisite issued and outstanding capital ^{Requisite value of capital}.

(2) For the purposes of subsection 1, the requisite issued ^{Idem} and outstanding capital of a venture investment corporation is,

- (a) \$250,000 or more during its first fiscal year;
- (b) \$350,000 or more prior to the end of its second fiscal year;
- (c) \$500,000 or more prior to the end of its third fiscal year;

(d) \$750,000 or more prior to the end of its fourth fiscal year;

(e) \$750,000 or more during each subsequent fiscal year.

Minimum
percentage
of eligible
investments

(3) Prior to the end of its first fiscal year, a venture investment corporation shall have invested at least 60 per cent of its requisite issued and outstanding capital in eligible investments.

Idem

(4) Prior to the end of its second fiscal year, a venture investment corporation shall have invested at least 80 per cent of its requisite issued and outstanding capital in eligible investments.

Idem

(5) Prior to the end of its third fiscal year, a venture investment corporation shall have invested an average of at least 80 per cent, calculated on the last day of each month of its fiscal year, of its requisite issued and outstanding capital in eligible investments.

Idem

(6) After the end of its third fiscal year, a venture investment corporation shall at all times maintain an average of at least 80 per cent, calculated on the last day of each month of the immediately preceding twelve months, of its requisite issued and outstanding capital in eligible investments.

Idem

(7) If at any time a venture investment corporation has issued and outstanding capital in excess of the requisite capital provided for in subsection 2, such venture investment corporation shall maintain at least 80 per cent of such excess in eligible investments.

Fiscal year

(8) A venture investment corporation shall have a fiscal year that commences upon the date of its registration under this Act and ends upon the anniversary of the date of its registration.

ELIGIBLE INVESTMENTS

Eligible
investments

10.—(1) An investment shall be an eligible investment if, but only if,

(a) the investment is made in a small business in which 90 per cent or more of its,

(i) assets are situate in Ontario, and

- (ii) wages and salaries are paid to residents of Ontario;
- (b) the investment is not used by the small business for the purpose of,
 - (i) relending,
 - (ii) investment in land except such land as is incidental and ancillary to the principal objects of the small business, or
 - (iii) reinvestment outside Canada;
- (c) the number of equity shares taken by the venture investment corporation in the small business, or any affiliated body corporate of such small business, in which the venture investment corporation invests does not at any time exceed 40 per cent, determined in the manner prescribed by subsection 2, of all issued and outstanding equity shares of such small business;
- (d) the investment is made in a small business in which,
 - (i) the total number of equity shares of the body corporate beneficially owned, directly or indirectly, by non-residents over which non-residents exercise control or direction does not exceed 25 per cent of the total number of issued and outstanding equity shares of the body corporate, or
 - (ii) the total number of equity shares of the body corporate beneficially owned, directly or indirectly, by a non-resident or over which he exercises his control or discretion, together with other shareholders associated with him, if any, does not exceed 10 per cent of the total number of issued and outstanding equity shares of the body corporate; and
- (e) the small business or investment is not of a type prescribed by the regulations.

(2) In determining the percentage of issued and outstanding equity shares of a small business for the purposes of clause c of subsection 1, there shall be included, Manner of determining percentage of equity shares

- (a) the number of equity shares into which any debt obligation of such small business may be converted;

- (b) any option or right to purchase equity shares of such small business; and
- (c) any equity shares, convertible debt obligations and any options or rights of such small business beneficially owned or held by an associate of the venture investment corporation, any shareholder of it, or an associate or affiliated body corporate of either of them.

Investments **11.**—(1) A venture investment corporation shall maintain its assets in,

- (a) eligible investments;
- (b) liquid reserves;
- (c) securities that were eligible investments at the time they were acquired by such venture investment corporation; or
- (d) such other form as may be prescribed.

Organization, etc., expenses (2) The Minister may prescribe the kinds of expenses that a venture investment corporation may claim in the organization, promotion and operation of its business and affairs and may impose limits thereon.

Liquid reserves

R.S.C. 1970,
c. B-1

R.S.O. 1970,
c. 254

(3) Assets of the corporation maintained in liquid reserves shall be deposited from time to time in any chartered bank to which the *Bank Act* (Canada) applies, or in any trust company or loan corporation that is registered under *The Loan and Trust Corporations Act*, or with the Province of Ontario Savings Office or in such other investments as may be prescribed, upon such terms and conditions and for such period as the corporation considers expedient.

Interpretation

12.—(1) In this section and in clause *d* of subsection 1 of section 10,

- (a) “body corporate” includes an association, partnership or other organization;
- (b) “non-resident” means,
 - (i) an individual who is not a resident Canadian,
 - (ii) a body corporate incorporated, formed or otherwise organized elsewhere than in Canada,

- (iii) a body corporate that is controlled directly or indirectly by non-residents as defined in subclause i or ii,
- (iv) a trust established by a non-resident as defined in subclause i, ii or iii, or a trust in which non-residents as so defined have more than 50 per cent of the beneficial interest, or
- (v) a body corporate that is controlled directly or indirectly by a trust mentioned in subclause iv;

(c) “resident” means an individual, body corporate or trust that is not a non-resident.

(2) For the purpose of clause *d* of subsection 1 of section 10, ^{Idem} a shareholder shall be deemed to be associated with another shareholder if,

- (a) one shareholder is a body corporate of which the other shareholder is an officer or director;
- (b) one shareholder is a partnership of which the other shareholder is a partner;
- (c) one shareholder is a body corporate that is controlled directly or indirectly by the other shareholder;
- (d) both shareholders are bodies corporate and one shareholder is controlled directly or indirectly by the same individual or body corporate that controls directly or indirectly the other shareholder;
- (e) both shareholders are members of a voting trust where the trust relates to shares of a body corporate; or
- (f) both shareholders are associated within the meaning of clauses *a* to *e* with the same shareholder.

13.—(1) A venture investment corporation shall not ^{Prohibited investments} invest or maintain an investment in a small business if,

- (a) any of the shares of such small business are held by,
 - (i) a major shareholder or an associate thereof of the venture investment corporation,

(ii) an officer or director or an associate thereof of a venture investment corporation or an officer or director or an associate thereof of a major shareholder of the venture investment corporation, or

(iii) a voting trust where the trust relates to the shares of the venture investment corporation;
or

(b) such small business is a subsidiary, a holding body corporate or affiliated body corporate of the venture investment corporation.

Interpre-
tation

(2) In this section, a "major shareholder" means a person who holds 10 per cent or more of the voting rights attached to all equity shares of the venture investment corporation for the time being outstanding.

Restriction
on security

14. In making an eligible investment, no venture investment corporation shall, at any time, require or accept, either directly or indirectly, the personal guarantee of any person or the giving of a charge, mortgage, hypothec, pledge or like secured interest in the assets of any individual.

Restriction
on
investment

15.—(1) Except where a venture investment corporation is widely held, it shall not invest in a small business if the proceeds of that investment are used or are intended to be used, in whole or in part, to finance the purchase or sale of goods or services provided to such small business through any shareholder of the venture investment corporation or any associate or affiliated body corporate of such shareholder.

Interpre-
tation

(2) For the purposes of subsection 1, a widely held venture investment corporation is one having five or more shareholders, each holding not more than 20 per cent of the issued and outstanding equity shares of that corporation.

Material
change

16.—(1) In this section, a material change occurs if, but only if, the investment of a venture investment corporation ceases to be,

(a) a small business; or

(b) an eligible investment.

Notification

(2) A venture investment corporation shall notify, in the prescribed form, the Minister of any material change in any of its investments within thirty days of the occurrence thereof.

(3) Where there is a material change, the investment by a Eligible investment venture investment corporation shall remain an eligible investment, notwithstanding any other provision of this Act, for a period of two years from the date of the material change.

17.—(1) No securities and no option or right to acquire securities of a small business or of a body corporate that has ceased to be a small business or an eligible investment shall be transferred or granted by a venture investment corporation without first granting to the holders of the equity shares of such small business or body corporate the right to acquire the whole or any part of such securities, option or right upon the same terms and conditions. Restriction on transfer, etc., of securities

(2) Only a holder of equity shares that is not a venture Proviso investment corporation may exercise the right to acquire securities, options or rights under subsection 1.

18. Where the Minister is of the opinion that the venture investment corporation or its security holders are conducting their business and affairs primarily so as to avoid payment of taxes, in a manner that is contrary to the spirit and intent of this Act, the Minister may, subject to section 8, revoke the registration of the venture investment corporation. Avoidance of taxes

19. No corporation registered under this Act shall offer its securities to the public unless such offering is exempt from the registration and prospectus requirements of *The Securities Act*. No public offering R.S.O. 1970, c. 426

20. Notwithstanding the provisions of section 167 of *The Business Corporations Act*, every venture investment corporation shall comply with the provisions of sections 168 and 169, subsections 1 to 4 of section 170 and section 171 and clause *c* of subsection 1 and subsection 3 of section 172 of that Act in each year. Application of R.S.O. 1970, c. 53

21. Within ninety days of the date to which it is made up, a venture investment corporation shall file with the Minister its financial statements and the auditor's report thereon. Filing of financial statements

INFORMATION

22.—(1) Within ninety days after each anniversary of the date of its registration, every venture investment corporation shall make out, verify and file with the Minister, a return in the prescribed form setting out, as of its anniversary date, the information required by such return. Returns

Change in
authorized
capital

(2) Where shares of a class are donated to, redeemed, purchased, accepted or surrendered or converted by a venture investment corporation, the venture investment corporation shall, within thirty days of the date in which the donation, redemption, purchase, surrender or conversion is effected, file with the Minister a notice setting out,

- (a) the number of shares of the class donated, redeemed, purchased, surrendered or converted;
- (b) the number of shares of the class cancelled;
- (c) the number and class or classes of shares into which the shares were converted; and
- (d) the date on which the donation, redemption, purchase, surrender or conversion was effected.

Enlargement
of time by
Minister

(3) The Minister may, in his discretion, enlarge the time for filing any notice or return under this section.

Record
of moneys
received

23.—(1) A venture investment corporation shall at all times maintain a record of all amounts of money or any other consideration received from any small business and shall indicate in such record the purpose for which the money or other consideration was received.

Records to
be filed

(2) Within thirty days after each anniversary of the date of its registration, every venture investment corporation shall file with the Minister a copy of the records maintained under subsection 1.

Notice to
Minister

24.—(1) Within thirty days of acquiring or selling an eligible investment, a venture investment corporation shall notify the Minister in the prescribed form of such acquisition or sale.

Particulars
of eligible
investments

(2) The Minister shall maintain a file in respect of each venture investment corporation in which there shall be recorded particulars of all eligible investments held by the venture investment corporation.

Non-
disclosure of
information

(3) The Minister or any employee of the Ministry shall not disclose information contained in a file or return under this section, or section 20, except where the disclosure is necessary for the administration or enforcement of this Act or *The Corporations Tax Act, 1972*, or where the disclosure is required by a court or the Tribunal for the purposes of an action, prosecution or proceeding.

(4) Upon the request of either the venture investment corporation or the Minister of Revenue, where the information is required for the administration or enforcement of *The Corporations Tax Act, 1972*, the Minister may issue to such venture investment corporation or the Minister of Revenue, a certificate as to registration under this Act or as to particulars of eligible investments held by such venture investment corporation during the period of time specified in the certificate.

Certifications
of eligible
investments,
etc.

1972, c. 143

25.—(1) Where this Act requires or authorizes the Minister to issue a certificate or to certify any fact, the certificate shall be issued under the seal of the Minister and shall be signed by him or by such officer of the Ministry as is designated by the Minister.

Certificates
to be under
seal

(2) Any certificate purporting to be under the seal of the Minister and signed by a person authorized by or under subsection 1, or any certified copy, is receivable in evidence in any action, prosecution or other proceedings as *prima facie* proof of the facts so certified without proof of the seal or the signature or the official position of the person appearing to have signed the certificate.

Certificates
to be
prima facie
proof

26.—(1) The Minister may at any time by notice require any venture investment corporation to file within the time specified in the notice a return upon any subject connected with its affairs and relevant to the administration or enforcement of this Act.

Information
required
by the
Minister

(2) The Minister or any employee of the Ministry shall not disclose information contained in a return made under subsection 1, except where the disclosure is necessary for the administration or enforcement of this Act or *The Corporations Tax Act, 1972*, or where the disclosure is required by a court or the Tribunal for the purposes of an action, prosecution or proceeding.

Idem,
disclosure of

27. A venture investment corporation that enters into a management agreement shall file with the Minister a copy of the agreement, together with any amendments thereto, within thirty days after the making of the agreement or amendment.

Management
agreements

OFFENCES

28.—(1) Every person who makes or assists in making a statement in any document required by or for the purposes of this Act or the regulations that, at the time and in the light of the circumstances under which it was made, is false

Offence

or misleading in respect of any material fact or that omits to state any material fact the omission of which makes the statement false or misleading is guilty of an offence and on summary conviction is liable to a fine of not more than \$2,000 or if such person is a corporation to a fine of not more than \$20,000.

Exception

(2) No person is guilty of an offence under subsection 1 if he did not know that the statement was false or misleading and in the exercise of reasonable diligence could not have known that the statement was false or misleading.

Offence

29.—(1) Every person who, while employed in the administration of this Act, has communicated or allowed to be communicated to a person not legally entitled thereto any information obtained under this Act, or has allowed any such person to inspect or to have access to any written statement furnished under this Act is guilty of an offence and on summary conviction is liable to a fine of not more than \$2,000.

Saving

(2) Subsection 1 does not apply to the communication of information among the Ministry and the Ministry of Revenue and the Ministry of Treasury, Economics and Intergovernmental Affairs.

Inspection

30. The Minister or any person designated by him in writing may at all reasonable times enter into any premises or place where any business is carried on or any property is kept or any thing is done in connection with any business of a venture investment corporation or any books or records are or should be kept by the registrant pursuant to this Act and may make an inspection to ensure that the provisions of this Act and the regulations relating to registration and the maintenance of records are being complied with.

Powers on inspection

31.—(1) Upon an inspection under section 30, the person inspecting,

- (a) is entitled to free access of all books of account, cash, documents, bank accounts, vouchers, correspondence and records of every description of the venture investment corporation being inspected;
- (b) may, upon giving a receipt therefor, remove any material referred to in clause *a* that relates to the purpose of the inspection for the purpose of making a copy thereof, providing that such copying is carried out with reasonable dispatch and the material in question is promptly thereafter returned to the person being inspected,

and no person shall obstruct the person inspecting or withhold or destroy, conceal or refuse to furnish any information or thing required by the person inspecting for the purposes of the inspection.

(2) Any copy made as provided in subsection 1 and purport- ^{Copy} ing to be certified by an inspector is admissible in evidence in any action, proceeding or prosecution as being of actual proof of the original.

(3) Every person who contravenes subsection 1 is guilty of ^{Offence} an offence and on summary conviction is liable to a fine of not more than \$2,000, or if such person is a corporation, to a fine of not more than \$20,000.

32. Every corporation that has failed to deliver a return ^{Offence} as and when required by this Act or the regulations is guilty of an offence and on summary conviction is liable to a fine of not less than \$25 for each day of default.

33. The Minister may require any fact relevant to the ^{Affidavit} performance of his duties under this Act or the regulations to be verified by affidavit or otherwise.

34. The Lieutenant Governor in Council may make ^{Regulations} regulations,

- (a) requiring the payment of fees for any matter required to be done in the administration of this Act and prescribing the amounts thereof;
- (b) designating officers of the Ministry who may sign certificates for the purposes of section 26;
- (c) prescribing the particulars that the Minister shall maintain in the register of venture investment corporations;
- (d) prescribing forms and providing for their use;
- (e) requiring any person to make information returns respecting any class of information required in assessing compliance with this Act;
- (f) authorizing a designated officer or class of officers employed by the Government of Ontario to exercise powers or perform duties of the Minister under this Act;

- (g) defining any word or expression used in this Act that has not already been expressly defined in this Act;
- (h) prescribing the manner in which any calculation under section 9 is to be made;
- (i) prescribing the manner and any conditions upon which a right of purchase may be exercised under section 17;
- (j) determining the method of calculation to be used in measuring the percentage of assets that a small business has situate in Ontario;
- (k) prescribing any matter required by this Act to be prescribed by the regulations.

Commence-
ment

35. This Act comes into force on a day to be named by proclamation of the Lieutenant Governor.

Short title

36. The short title of this Act is *The Venture Investment Corporations Registration Act, 1977*.

An Act respecting the Registration of
Venture Investment Corporations

1st Reading

June 27th, 1977

2nd Reading

3rd Reading

THE HON. W. D. McKEOUGH
Treasurer of Ontario and
Minister of Economics and
Intergovernmental Affairs

(Government Bill)

BILL 9

1ST SESSION, 31ST LEGISLATURE, ONTARIO
26 ELIZABETH II, 1977

**An Act respecting the
Registration of Venture Investment Corporations**

THE HON. W. D. McKEOUGH
Treasurer of Ontario and Minister of Economics and
Intergovernmental Affairs



TORONTO

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BILL 9

1977

An Act respecting the Registration of Venture Investment Corporations

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1.—(1) In this Act,

Interpre-
tation

- (a) “articles of incorporation” or “articles” means the original or restated articles of incorporation, articles of amalgamation, letters patent, supplementary letters patent, a special Act and any other instrument by which a corporation is incorporated, and includes any amendments thereto;
- (b) “associate”, where used to indicate a relationship with any person, means,
 - (i) any body corporate of which such person beneficially owns, directly or indirectly, equity shares carrying more than 10 per cent of the voting rights attached to all equity shares of the body corporate for the time being,
 - (ii) any partner of that person acting by or for the partnership of which they are both partners,
 - (iii) any trust or estate in which such person has a substantial beneficial interest or in respect of which such person serves as trustee or in a similar capacity,
 - (iv) any spouse, parent, son or daughter, brother or sister of that person, or
 - (v) any relative of such person or of his spouse, other than a relative referred to in subclause iv, who has the same home as such person;

- (c) "body corporate" means any body corporate whether or not it is a corporation to which *The Business Corporations Act* applies;
- (d) "certified copy" means,
 - (i) in relation to a document of a body corporate, a copy of the document certified to be a true copy under the seal of the body corporate and signed by an officer thereof,
 - (ii) in relation to a document issued by a court, a copy of the document certified to be a true copy under the seal of the court and signed by the registrar or clerk thereof,
 - (iii) in relation to a document in the custody of the Ministry, a copy of the document certified to be a true copy under the seal of the Minister and signed by the Minister or by such officer of the Ministry as is designated by the regulations;
- (e) "corporation" means a body corporate with share capital to which *The Business Corporations Act* applies;
- (f) "debt obligation" means a bond, debenture, note or other similar obligation of a body corporate, whether secured or unsecured;
- (g) "director" means a member of the board of directors of a body corporate or any other individual who performs functions for the body corporate similar to those normally performed by an individual occupying the position of director;
- (h) "eligible investment" means an investment in a small business that complies with section 10;
- (i) "equity share" means any share of any class of shares of a body corporate carrying voting rights under all circumstances and any share of any class of shares carrying voting rights by reason of the occurrence of any contingency that has occurred and is continuing;
- (j) "investment" means the purchase or acquisition from a small business by a venture investment corporation of the securities issued by that small business;

- (k) "land" includes land and any estate, right or interest therein, a leasehold interest or estate, the interest of an optionee, the interest of a purchaser under an agreement to sell land or goodwill attributable to the location of land or to the existence thereon of any building or fixture, and fixtures;
- (l) "Minister" means the Minister of Consumer and Commercial Relations or such other member of the Executive Council to whom the administration of this Act is assigned;
- (m) "Ministry" means the Ministry of the Minister;
- (n) "officer" means the chairman or any vice-chairman of the board of directors, the president, any vice-president, the secretary, any assistant secretary, the treasurer, any assistant treasurer, the general manager, or any other person designated an officer by by-law or resolution of the directors or any other individual who performs functions for the body corporate similar to those normally performed by an individual occupying any such office;
- (o) "prescribed" means prescribed by the regulations;
- (p) "register" means the register under this Act;
- (q) "regulations" means the regulations made under this Act;
- (r) "related person", where used to indicate a relationship with any person, means,
 - (i) any spouse, parent, son or daughter, brother or sister of that person,
 - (ii) any relative of such person or of his spouse, other than a relative referred to in subclause i, who has the same home as such person, or
 - (iii) any body corporate of which such person and any of the persons referred to in subclause i or ii or the partner or employer of such person, either alone or in combination beneficially owns, directly or indirectly, equity shares carrying more than 50 per cent of the voting rights attached to all equity shares of a body corporate for the time being outstanding;

- (s) "resident Canadian" means an individual who is a Canadian citizen or has been lawfully admitted to Canada for permanent residence and who is ordinarily resident in Canada;
- (t) "security" means any share of any class of shares or any debt obligation of a body corporate;
- (u) "small business" means a body corporate having the number of employees and the amount of assets and profits that fall within the prescribed limits;
- (v) "Tribunal" means the Ontario Securities Commission;
- (w) "venture investment corporation" means a corporation registered under this Act.

Interpre-
tation:
subsidiary
body
corporate

(2) For the purposes of this Act, a body corporate shall be deemed to be a subsidiary of another body corporate if, but only if,

(a) it is controlled by,

(i) that other,

(ii) that other and one or more bodies corporate each of which is controlled by that other, or

(iii) two or more bodies corporate each of which is controlled by that other; or

(b) it is a subsidiary of a body corporate that is that other's subsidiary.

holding
body
corporate

(3) For the purposes of this Act, a body corporate shall be deemed to be another's holding body corporate if, but only if, that other is its subsidiary.

affiliated
body
corporate

(4) For the purposes of this Act, one body corporate shall be deemed to be affiliated with another body corporate if, but only if, one of them is the subsidiary of the other or both are subsidiaries of the same body corporate or each of them is controlled by the same person.

Control

(5) Unless otherwise prescribed, a body corporate shall be deemed to be controlled by another person or by two or more bodies corporate if, but only if,

(a) shares of the first-mentioned body corporate carrying more than 50 per cent of the votes for the election of directors are held, other than by way of security only, by or for the benefit of such other person or by or for the benefit of such other bodies corporate; and

(b) the votes carried by such shares are sufficient if exercised to elect a majority of the board of directors of the first-mentioned body corporate.

(6) In calculating the total number of equity shares of a body corporate beneficially owned or controlled, for the purposes of this Act, the total number shall be calculated as the total of all the shares actually owned or controlled, but each share that carries the right to more than one vote shall be calculated as the number of shares equalling the total number of votes carried.

Calculation
of total
number of
equity
shares

(7) In determining the number of shareholders of a body corporate, for the purposes of this Act, two or more persons holding the same share or shares jointly shall be counted as one shareholder.

Number of
shareholders

(8) For the purpose of determining whether or not a body corporate is a small business, there shall be taken into account the number of employees and the amount of assets and profits of any affiliate of such body corporate.

Deter-
mination
of small
business

2.—(1) Where all the shares of a corporation are with par value, its issued and outstanding capital shall be expressed in Canadian or other currency, or partly in one currency and partly in another, and is an amount equal to the total of the products of the number of such issued and outstanding shares of each class multiplied by the par value thereof less such decreases in the issued and outstanding capital as from time to time have been effected by the corporation in accordance with *The Business Corporations Act*.

Issued
capital:
par value
shares

R.S.O. 1970,
c. 53

(2) Where the shares of a corporation are without par value or where part of its shares are with par value and part are without par value, its issued and outstanding capital shall be expressed in Canadian or other currency, or partly in one currency and partly in another, and is an amount equal to the total of the products of the number of issued and outstanding shares of each class with par value multiplied by the par value thereof, together with the amount of the consideration for which the shares without par value from time to time outstanding were issued and together with such amounts as from time to time by by-law of the cor-

no par
value
shares

R.S.O. 1970,
c. 53

poration may be transferred thereto and less such decreases in the issued and outstanding capital as from time to time have been effected by the corporation in accordance with *The Business Corporations Act*.

REGISTER

Register

3.—(1) The Minister shall maintain a register of venture investment corporations in which he shall list all corporations registered under this Act.

Delegation
by Minister

(2) The Minister may delegate in writing any of his duties or powers under this Act to any public servant in the Ministry.

REGISTRATION

Registration

4.—(1) A corporation may apply to be registered under this Act by delivering to the Minister a proposal in duplicate.

Contents of
proposal

(2) A proposal shall set out:

1. The name of the corporation.
2. The location of the head office of the corporation in Ontario, including the street and number, if any.
3. The authorized capital, the classes of shares, if any, into which it is to be divided, the number of shares in each class, and the par value of each share, or, where the shares are without par value, the consideration, if any, exceeding which each share may not be issued or the aggregate consideration, if any, exceeding which all other shares of each class may not be issued.
4. The issued capital of each class of shares, including the aggregate consideration therefor.
5. The amounts and kinds of debt obligations, if any, issued by the corporation.
6. The number of directors of the corporation and the names in full and the residence addresses of each, giving the street and number, if any.
7. The names in full of the officers of the corporation and the residence addresses of each, giving the street and number, if any.
8. Any other matter prescribed to be set out in the proposal.

(3) A proposal shall be accompanied by a certified copy of the corporation's articles of incorporation. Articles of incorporation

(4) The proposal shall be executed under the seal of the corporation and signed by two officers or one director and one officer of the corporation and certified by affidavit of one of the officers or directors signing the proposal. Execution of proposal

5.—(1) No corporation shall be registered under this Act unless, Conditions of registration

(a) the corporation has never previously carried on business;

(b) a majority of the directors on the board of directors are resident Canadians;

(c) the corporation has objects only to assist in the development of small businesses by,

(i) providing capital through the acquisition and holding of shares and notes, bonds, debentures or similar obligations, and

(ii) providing business and managerial expertise to small businesses;

(d) the corporation has issued and outstanding capital of a value of \$250,000 or more; and

(e) the corporate name includes the words "venture investment corporation".

(2) A venture investment corporation shall at all times comply with the provisions of clauses *b*, *c* and *e* of subsection 1. Continuing conditions

(3) No corporation, association, partnership or individual not being a corporation registered under this Act shall use in Ontario, without the consent of the Minister, a name that includes the words "venture investment corporation" or any abbreviation or derivation thereof, whether or not the word, abbreviation or derivation is used in or in connection with the name. Use of "venture investment corporation"

6.—(1) Subject to subsection 4, a corporation is entitled to registration by the Minister except where, Registration

(a) the applicant fails to comply with section 4 or 5, as the case may be; or

- (b) the applicant fails to file the material required by this Act or the regulations.

Refusal to register

- (2) Subject to section 8, the Minister may refuse to register a corporation where in the Minister's opinion the applicant is disentitled to registration under subsection 1 of this section.

Revocation of registration

- (3) Subject to section 8, the Minister may revoke a registration where the registrant fails to comply with any provision of this Act or the regulations.

Minister may suspend further registrations

- (4) Where the Minister is of the opinion that the number of corporations registered under this Act is sufficient to meet the objectives of this Act or where he is of the opinion that it is in the public interest to do so, the Minister may, subject to the approval of the Lieutenant Governor in Council, by order, suspend the further registration of corporations under this Act for such period of time as is specified in the order.

Registration

7. If a corporation complies with sections 4 and 5, the Minister shall, when all prescribed fees have been paid,

- (a) endorse on each duplicate of the proposal the word "Registered" and the day, month and year of the registration thereof;
- (b) file one of the duplicates in his office;
- (c) place the name of the corporation in the register of venture investment corporations; and
- (d) issue to the registrants a certificate of registration to which he shall affix the other duplicate.

Notice of proposal to refuse or revoke

- 8.—(1) Where the Minister proposes to refuse to grant or proposes to revoke a registration, he shall serve notice of his proposal, together with written reasons therefor, on the applicant or registrant.

Notice requiring hearing

- (2) A notice under subsection 1 shall inform the applicant or registrant that he is entitled to a hearing by the Tribunal if he mails or delivers, within fifteen days after the notice under subsection 1 is served on him, notice in writing requiring a hearing to the Minister and the Tribunal, and he may so require such a hearing.

Powers of Minister where no hearing

- (3) Where an applicant or registrant does not require a hearing by the Tribunal in accordance with subsection 2,

the Minister may carry out the proposal stated in his notice under subsection 1.

(4) Where an applicant or registrant requires a hearing by the Tribunal in accordance with subsection 2, the Tribunal shall appoint a time for and hold the hearing and, on application made at the hearing, may by order direct the Minister to carry out his proposal or refrain from carrying out his proposal and to take such action as the Tribunal considers the Minister ought to take in accordance with this Act and the regulations, and for such purposes the Tribunal may substitute its opinion for that of the Minister. ^{Powers of Tribunal where hearing}

(5) The Tribunal may attach such terms and conditions to its order or to the registration as it considers proper to give effect to the purposes of this Act. ^{Conditions of order}

(6) The Minister, the applicant or the registrant who has required the hearing and such other persons as the Tribunal may specify are parties to the proceedings before the Tribunal under this section. ^{Parties}

(7) Notwithstanding subsection 1, the Minister may cancel a registration upon the request in writing of the registrant in the prescribed form surrendering its registration. ^{Voluntary cancellation}

(8) Notwithstanding that an applicant or registrant appeals from an order of the Tribunal, the order takes effect immediately, but the Tribunal may grant a stay until disposition of the appeal. ^{Order effective. stay}

9.—(1) In each fiscal year, a venture investment corporation shall maintain issued and outstanding capital of a value that is not less than the requisite issued and outstanding capital. ^{Requisite value of capital}

(2) For the purposes of subsection 1, the requisite issued and outstanding capital of a venture investment corporation is, ^{Idem}

- (a) \$250,000 or more during its first fiscal year;
- (b) \$350,000 or more prior to the end of its second fiscal year;
- (c) \$500,000 or more prior to the end of its third fiscal year;

(d) \$750,000 or more prior to the end of its fourth fiscal year;

(e) \$750,000 or more during each subsequent fiscal year.

Minimum
percentage
of eligible
investments

(3) Prior to the end of its first fiscal year, a venture investment corporation shall have invested at least 60 per cent of its requisite issued and outstanding capital in eligible investments.

Idem

(4) Prior to the end of its second fiscal year, a venture investment corporation shall have invested at least 80 per cent of its requisite issued and outstanding capital in eligible investments.

Idem

(5) Prior to the end of its third fiscal year, a venture investment corporation shall have invested an average of at least 80 per cent, calculated on the last day of each month of its fiscal year, of its requisite issued and outstanding capital in eligible investments.

Idem

(6) After the end of its third fiscal year, a venture investment corporation shall at all times maintain an average of at least 80 per cent, calculated on the last day of each month of the immediately preceding twelve months, of its requisite issued and outstanding capital in eligible investments.

Idem

(7) If at any time a venture investment corporation has issued and outstanding capital in excess of the requisite capital provided for in subsection 2, such venture investment corporation shall maintain at least 80 per cent of such excess in eligible investments.

Fiscal year

(8) A venture investment corporation shall have a fiscal year that commences upon the date of its registration under this Act and ends upon the anniversary of the date of its registration.

ELIGIBLE INVESTMENTS

Eligible
investments

10.—(1) An investment shall be an eligible investment if, but only if,

(a) the investment is made in a small business in which 90 per cent or more of its,

(i) assets are situate in Ontario, and

- (ii) wages and salaries are paid to residents of Ontario;
 - (b) the investment is not used by the small business for the purpose of,
 - (i) relending,
 - (ii) investment in land except such land as is incidental and ancillary to the principal objects of the small business, or
 - (iii) reinvestment outside Canada;
 - (c) the number of equity shares taken by the venture investment corporation in the small business, or any affiliated body corporate of such small business, in which the venture investment corporation invests does not at any time exceed 40 per cent, determined in the manner prescribed by subsection 2, of all issued and outstanding equity shares of such small business;
 - (d) the investment is made in a small business in which,
 - (i) the total number of equity shares of the body corporate beneficially owned, directly or indirectly, by non-residents over which non-residents exercise control or direction does not exceed 25 per cent of the total number of issued and outstanding equity shares of the body corporate, or
 - (ii) the total number of equity shares of the body corporate beneficially owned, directly or indirectly, by a non-resident or over which he exercises his control or discretion, together with other shareholders associated with him, if any, does not exceed 10 per cent of the total number of issued and outstanding equity shares of the body corporate; and
 - (e) the small business or investment is not of a type prescribed by the regulations.
- (2) In determining the percentage of issued and outstanding equity shares of a small business for the purposes of clause *c* of subsection 1, there shall be included,
- Manner of
determining
percentage
of equity
shares
- (a) the number of equity shares into which any debt obligation of such small business may be converted;

- (b) any option or right to purchase equity shares of such small business; and
- (c) any equity shares, convertible debt obligations and any options or rights of such small business beneficially owned or held by an associate of the venture investment corporation, any shareholder of it, or an associate or affiliated body corporate of either of them.

Investments **11.—**(1) A venture investment corporation shall maintain its assets in,

- (a) eligible investments;
- (b) liquid reserves;
- (c) securities that were eligible investments at the time they were acquired by such venture investment corporation; or
- (d) such other form as may be prescribed.

Organization, etc., expenses (2) The Minister may prescribe the kinds of expenses that a venture investment corporation may claim in the organization, promotion and operation of its business and affairs and may impose limits thereon.

Liquid reserves

R.S.C. 1970,
c. B-1

R.S.O. 1970,
c. 254

(3) Assets of the corporation maintained in liquid reserves shall be deposited from time to time in any chartered bank to which the *Bank Act* (Canada) applies, or in any trust company or loan corporation that is registered under *The Loan and Trust Corporations Act*, or with the Province of Ontario Savings Office or in such other investments as may be prescribed, upon such terms and conditions and for such period as the corporation considers expedient.

Interpretation

12.—(1) In this section and in clause *d* of subsection 1 of section 10,

- (a) "body corporate" includes an association, partnership or other organization;
- (b) "non-resident" means,
 - (i) an individual who is not a resident Canadian,
 - (ii) a body corporate incorporated, formed or otherwise organized elsewhere than in Canada,

(iii) a body corporate that is controlled directly or indirectly by non-residents as defined in subclause i or ii,

(iv) a trust established by a non-resident as defined in subclause i, ii or iii, or a trust in which non-residents as so defined have more than 50 per cent of the beneficial interest, or

(v) a body corporate that is controlled directly or indirectly by a trust mentioned in subclause iv;

(c) "resident" means an individual, body corporate or trust that is not a non-resident.

(2) For the purpose of clause *d* of subsection 1 of section 10, ^{Idem} a shareholder shall be deemed to be associated with another shareholder if,

(a) one shareholder is a body corporate of which the other shareholder is an officer or director;

(b) one shareholder is a partnership of which the other shareholder is a partner;

(c) one shareholder is a body corporate that is controlled directly or indirectly by the other shareholder;

(d) both shareholders are bodies corporate and one shareholder is controlled directly or indirectly by the same individual or body corporate that controls directly or indirectly the other shareholder;

(e) both shareholders are members of a voting trust where the trust relates to shares of a body corporate; or

(f) both shareholders are associated within the meaning of clauses *a* to *e* with the same shareholder.

13.—(1) A venture investment corporation shall not ^{Prohibited investments} invest or maintain an investment in a small business if,

(a) any of the shares of such small business are held by,

(i) a major shareholder or an associate thereof of the venture investment corporation,

(ii) an officer or director or an associate thereof of a venture investment corporation or an officer or director or an associate thereof of a major shareholder of the venture investment corporation, or

(iii) a voting trust where the trust relates to the shares of the venture investment corporation; or

(b) such small business is a subsidiary, a holding body corporate or affiliated body corporate of the venture investment corporation.

Interpre-
tation

(2) In this section, a "major shareholder" means a person who holds 10 per cent or more of the voting rights attached to all equity shares of the venture investment corporation for the time being outstanding.

Restriction
on security

14. In making an eligible investment, no venture investment corporation shall, at any time, require or accept, either directly or indirectly, the personal guarantee of any person or the giving of a charge, mortgage, hypothec, pledge or like secured interest in the assets of any individual.

Restriction
on
investment

15.—(1) Except where a venture investment corporation is widely held, it shall not invest in a small business if the proceeds of that investment are used or are intended to be used, in whole or in part, to finance the purchase or sale of goods or services provided to such small business through any shareholder of the venture investment corporation or any associate or affiliated body corporate of such shareholder.

Interpre-
tation

(2) For the purposes of subsection 1, a widely held venture investment corporation is one having five or more shareholders, each holding not more than 20 per cent of the issued and outstanding equity shares of that corporation.

Material
change

16.—(1) In this section, a material change occurs if, but only if, the investment of a venture investment corporation ceases to be,

(a) a small business; or

(b) an eligible investment.

Notification

(2) A venture investment corporation shall notify, in the prescribed form, the Minister of any material change in any of its investments within thirty days of the occurrence thereof.

(3) Where there is a material change, the investment by a Eligible investment venture investment corporation shall remain an eligible investment, notwithstanding any other provision of this Act, for a period of two years from the date of the material change.

17.—(1) No securities and no option or right to acquire Restriction on transfer, etc., of securities securities of a small business or of a body corporate that has ceased to be a small business or an eligible investment shall be transferred or granted by a venture investment corporation without first granting to the holders of the equity shares of such small business or body corporate the right to acquire the whole or any part of such securities, option or right upon the same terms and conditions.

(2) Only a holder of equity shares that is not a venture Proviso investment corporation may exercise the right to acquire securities, options or rights under subsection 1.

18. Where the Minister is of the opinion that the venture Avoidance of taxes investment corporation or its security holders are conducting their business and affairs primarily so as to avoid payment of taxes, in a manner that is contrary to the spirit and intent of this Act, the Minister may, subject to section 8, revoke the registration of the venture investment corporation.

19. No corporation registered under this Act shall offer No public offering its securities to the public unless such offering is exempt from the registration and prospectus requirements of *The Securities Act*. R.S.O. 1970, c. 426

20. Notwithstanding the provisions of section 167 of *The Business Corporations Act*, every venture investment corporation shall comply with the provisions of sections 168 and 169, subsections 1 to 4 of section 170 and section 171 and clause *c* of subsection 1 and subsection 3 of section 172 of that Act in each year. Application of R.S.O. 1970, c. 53

21. Within ninety days of the date to which it is made Filing of financial statements up, a venture investment corporation shall file with the Minister its financial statements and the auditor's report thereon.

INFORMATION

22.—(1) Within ninety days after each anniversary of the Returns date of its registration, every venture investment corporation shall make out, verify and file with the Minister, a return in the prescribed form setting out, as of its anniversary date, the information required by such return.

Change in
authorized
capital

(2) Where shares of a class are donated to, redeemed, purchased, accepted or surrendered or converted by a venture investment corporation, the venture investment corporation shall, within thirty days of the date in which the donation, redemption, purchase, surrender or conversion is effected, file with the Minister a notice setting out,

- (a) the number of shares of the class donated, redeemed, purchased, surrendered or converted;
- (b) the number of shares of the class cancelled;
- (c) the number and class or classes of shares into which the shares were converted; and
- (d) the date on which the donation, redemption, purchase, surrender or conversion was effected.

Enlargement
of time by
Minister

(3) The Minister may, in his discretion, enlarge the time for filing any notice or return under this section.

Record
of moneys
received

23.—(1) A venture investment corporation shall at all times maintain a record of all amounts of money or any other consideration received from any small business and shall indicate in such record the purpose for which the money or other consideration was received.

Records to
be filed

(2) Within thirty days after each anniversary of the date of its registration, every venture investment corporation shall file with the Minister a copy of the records maintained under subsection 1.

Notice to
Minister

24.—(1) Within thirty days of acquiring or selling an eligible investment, a venture investment corporation shall notify the Minister in the prescribed form of such acquisition or sale.

Particulars
of eligible
investments

(2) The Minister shall maintain a file in respect of each venture investment corporation in which there shall be recorded particulars of all eligible investments held by the venture investment corporation.

Non-
disclosure of
information

(3) The Minister or any employee of the Ministry shall not disclose information contained in a file or return under this section, or section 20, except where the disclosure is necessary for the administration or enforcement of this Act or *The Corporations Tax Act, 1972*, or where the disclosure is required by a court or the Tribunal for the purposes of an action, prosecution or proceeding.

(4) Upon the request of either the venture investment corporation or the Minister of Revenue, where the information is required for the administration or enforcement of *The Corporations Tax Act, 1972*, the Minister may issue to such venture investment corporation or the Minister of Revenue, a certificate as to registration under this Act or as to particulars of eligible investments held by such venture investment corporation during the period of time specified in the certificate.

Certifications
of eligible
investments,
etc.

1972, c. 143

25.—(1) Where this Act requires or authorizes the Minister to issue a certificate or to certify any fact, the certificate shall be issued under the seal of the Minister and shall be signed by him or by such officer of the Ministry as is designated by the Minister.

Certificates
to be under
seal

(2) Any certificate purporting to be under the seal of the Minister and signed by a person authorized by or under subsection 1, or any certified copy, is receivable in evidence in any action, prosecution or other proceedings as *prima facie* proof of the facts so certified without proof of the seal or the signature or the official position of the person appearing to have signed the certificate.

Certificates
to be
prima facie
proof

26.—(1) The Minister may at any time by notice require any venture investment corporation to file within the time specified in the notice a return upon any subject connected with its affairs and relevant to the administration or enforcement of this Act.

Information
required
by the
Minister

(2) The Minister or any employee of the Ministry shall not disclose information contained in a return made under subsection 1, except where the disclosure is necessary for the administration or enforcement of this Act or *The Corporations Tax Act, 1972*, or where the disclosure is required by a court or the Tribunal for the purposes of an action, prosecution or proceeding.

Idem.
disclosure of

27. A venture investment corporation that enters into a management agreement shall file with the Minister a copy of the agreement, together with any amendments thereto, within thirty days after the making of the agreement or amendment.

Management
agreements

OFFENCES

28.—(1) Every person who makes or assists in making a statement in any document required by or for the purposes of this Act or the regulations that, at the time and in the light of the circumstances under which it was made, is false

Offence

or misleading in respect of any material fact or that omits to state any material fact the omission of which makes the statement false or misleading is guilty of an offence and on summary conviction is liable to a fine of not more than \$2,000 or if such person is a corporation to a fine of not more than \$20,000.

Exception

(2) No person is guilty of an offence under subsection 1 if he did not know that the statement was false or misleading and in the exercise of reasonable diligence could not have known that the statement was false or misleading.

Offence

29.—(1) Every person who, while employed in the administration of this Act, has communicated or allowed to be communicated to a person not legally entitled thereto any information obtained under this Act, or has allowed any such person to inspect or to have access to any written statement furnished under this Act is guilty of an offence and on summary conviction is liable to a fine of not more than \$2,000.

Saving

(2) Subsection 1 does not apply to the communication of information among the Ministry and the Ministry of Revenue and the Ministry of Treasury, Economics and Intergovernmental Affairs.

Inspection

30. The Minister or any person designated by him in writing may at all reasonable times enter into any premises or place where any business is carried on or any property is kept or any thing is done in connection with any business of a venture investment corporation or any books or records are or should be kept by the registrant pursuant to this Act and may make an inspection to ensure that the provisions of this Act and the regulations relating to registration and the maintenance of records are being complied with.

Powers on inspection

31.—(1) Upon an inspection under section 30, the person inspecting,

(a) is entitled to free access of all books of account, cash, documents, bank accounts, vouchers, correspondence and records of every description of the venture investment corporation being inspected;

(b) may, upon giving a receipt therefor, remove any material referred to in clause *a* that relates to the purpose of the inspection for the purpose of making a copy thereof, providing that such copying is carried out with reasonable dispatch and the material in question is promptly thereafter returned to the person being inspected,

and no person shall obstruct the person inspecting or withhold or destroy, conceal or refuse to furnish any information or thing required by the person inspecting for the purposes of the inspection.

(2) Any copy made as provided in subsection 1 and purporting to be certified by an inspector is admissible in evidence in any action, proceeding or prosecution as being of actual proof of the original. ^{Copy}

(3) Every person who contravenes subsection 1 is guilty of an offence and on summary conviction is liable to a fine of not more than \$2,000, or if such person is a corporation, to a fine of not more than \$20,000. ^{Offence}

32. Every corporation that has failed to deliver a return as and when required by this Act or the regulations is guilty of an offence and on summary conviction is liable to a fine of not less than \$25 for each day of default. ^{Offence}

33. The Minister may require any fact relevant to the performance of his duties under this Act or the regulations to be verified by affidavit or otherwise. ^{Affidavit}

34. The Lieutenant Governor in Council may make regulations, ^{Regulations}

- (a) requiring the payment of fees for any matter required to be done in the administration of this Act and prescribing the amounts thereof;
- (b) designating officers of the Ministry who may sign certificates for the purposes of section 26;
- (c) prescribing the particulars that the Minister shall maintain in the register of venture investment corporations;
- (d) prescribing forms and providing for their use;
- (e) requiring any person to make information returns respecting any class of information required in assessing compliance with this Act;
- (f) authorizing a designated officer or class of officers employed by the Government of Ontario to exercise powers or perform duties of the Minister under this Act;

- (g) defining any word or expression used in this Act that has not already been expressly defined in this Act;
- (h) prescribing the manner in which any calculation under section 9 is to be made;
- (i) prescribing the manner and any conditions upon which a right of purchase may be exercised under section 17;
- (j) determining the method of calculation to be used in measuring the percentage of assets that a small business has situate in Ontario;
- (k) prescribing any matter required by this Act to be prescribed by the regulations.

Commence-
ment

35. This Act comes into force on a day to be named by proclamation of the Lieutenant Governor.

Short title

36. The short title of this Act is *The Venture Investment Corporations Registration Act, 1977*.

An Act respecting the Registration of
Venture Investment Corporations

1st Reading

June 27th, 1977

2nd Reading

June 29th, 1977

3rd Reading

June 30th, 1977

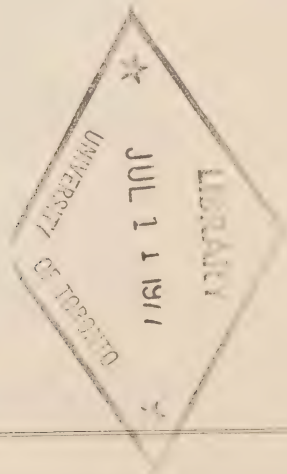
THE HON. W. D. McKEOUGH
Treasurer of Ontario and
Minister of Economics and
Intergovernmental Affairs

1ST SESSION, 31ST LEGISLATURE, ONTARIO
26 ELIZABETH II, 1977

Government
Publications

An Act to amend The Tobacco Tax Act

THE HON. W. D. McKEOUGH
Treasurer of Ontario and Minister of Economics and
Intergovernmental Affairs



TORONTO

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EXPLANATORY NOTES

Pursuant to the announcement in the Treasurer's Budget, this Bill increases the rates of tax on tobacco products. For cigarettes, the rate is increased by 5 cents on a package of 20 cigarettes. The new rate of tax is 19.2 cents for 20 cigarettes. The rate of tax on cigars is, on the average, doubled. For higher priced cigars, the new tax rate will be 2 cents for every 5 cents of the retail price of the cigar. The rate of tax on other tobacco products, such as pipe tobacco and fine cut tobacco for rolling cigarettes, is approximately doubled and, to meet the approaching adoption by tobacco manufacturers of the metric system, is now to be based on grams of tobacco rather than ounces. The new tax rate for this class of tobacco is thirty-five one-hundredths of a cent on each gram of tobacco, which is roughly equivalent to 10 cents for each ounce.

In addition, a number of other changes are made to the Act to provide the same administrative procedures with respect to assessments, appeals and collection of tax as are contained in the Province's other major revenue statutes.

SECTION 1.—Subsection 1. Subsection 1 of section 2 of the Act now reads as follows:

(1) *Every consumer shall pay to Her Majesty in right of Ontario a tax computed as follows:*

- (a) *seventy-one one-hundredths of 1 cent on every cigarette purchased by him;*
- (b) *2.5 cents for every one-half of one ounce or part thereof of any tobacco, other than cigarettes or cigars, purchased by him;*
- (c) *1 cent on every cigar purchased by him for a price at retail of not more than 7 cents;*
- (d) *2 cents on every cigar purchased by him for a price at retail of more than 7 cents but not more than 10 cents;*
- (e) *3 cents on every cigar purchased by him for a price at retail of more than 10 cents but not more than 15 cents;*
- (f) *4 cents on every cigar purchased by him for a price at retail of more than 15 cents but not more than 20 cents, and thereafter an additional 1 cent for each additional 5 cents that the price at retail exceeds 20 cents.*

The re-enacted subsection contains the new rates of tax proposed by the Treasurer's Budget.

Subsection 2. The subsection added provides that amounts that are paid in lieu of or on account of tax are to be dealt with, and may be collected, as though they were tax.

BILL 10

1977

An Act to amend The Tobacco Tax Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

- 1.—(1) Subsection 1 of section 2 of *The Tobacco Tax Act*, being ^{s. 2 (1).} ~~chapter 463 of the Revised Statutes of Ontario, 1970,~~ ^{re-enacted} as re-enacted by the Statutes of Ontario, 1972, chapter 16, section 1 and amended by the Statutes of Ontario, 1976, chapter 24, section 1, is repealed and the following substituted therefor:

(1) Every consumer shall pay to Her Majesty in right of ^{Tax on} Ontario a tax computed as follows:

- (a) ninety-six one-hundredths of 1 cent on every cigarette purchased by him;
- (b) thirty-five one-hundredths of 1 cent on every gram or part thereof of any tobacco, other than cigarettes or cigars, purchased by him;
- (c) 2 cents on every cigar purchased by him for a price at retail of not more than 7 cents;
- (d) 4 cents on every cigar purchased by him for a price at retail of more than 7 cents but not more than 10 cents; and
- (e) 6 cents on every cigar purchased by him for a price at retail of more than 10 cents but not more than 15 cents, and thereafter an additional 2 cents for each additional 5 cents that the price at retail of a cigar purchased by him exceeds 15 cents.

- (2) The said section 2 is amended by adding thereto the ^{s. 2.} ~~following~~ ^{amended} subsection:

Amounts in
lieu of tax

(4) Where any person selling tobacco receives any payment made as or in lieu of the tax payable under this Act, such payment shall be dealt with and accounted for as tax under this Act, and any person who fails to deal with and account for such payment in accordance with this Act and the regulations is liable to the same penalties and fines, and is guilty of the same offences, as would apply if the payment were the tax payable under this Act, and the Minister may collect and receive such payment by the same remedies and procedures as are provided by this Act or the regulations for the collection and enforcement of the tax payable under this Act.

s. 6 (1),
re-enacted

2. Subsection 1 of section 6 of the said Act is repealed and the following substituted therefor:

Sales of
tobacco
under
R.S.O. 1970,
c. 52

(1) No wholesale dealer shall dispose of his stock through a sale in bulk as defined in *The Bulk Sales Act* without first obtaining a certificate in duplicate from the Minister that all taxes collectable or payable under this Act by such wholesale dealer have been paid or that such person has entered into an arrangement satisfactory to the Minister for the payment of such taxes or for securing their payment.

s. 8 (2),
amended

- 3.—(1) Subsection 2 of section 8 of the said Act is amended by striking out “and it shall bear interest at the rate prescribed by the regulations from the day the amount was due until it is paid” in the eighth, ninth and tenth lines.

s. 8 (3) (a, b),
re-enacted

- (2) Clauses *a* and *b* of subsection 3 of the said section 8, as enacted by the Statutes of Ontario, 1976, chapter 24, section 2, are repealed and the following substituted therefor:

(a) \$700; or

(b) the aggregate of,

- (i) 4 per cent of the tax collected by him in such period and shown in a return that is made in accordance with this Act and the regulations and in which the tax shown to have been so collected is \$75 or more,
- (ii) \$3 for each return with respect to tax collected by him in such period that is made in accordance with this Act and the regulations and in which the tax shown to have been so collected exceeds \$3 and is less than \$75, and

SECTION 2. Subsection 1 of section 6 of the Act now reads as follows:

- (1) *No wholesale dealer shall dispose of his stock through a sale in bulk as defined in The Bulk Sales Act without first obtaining a certificate in duplicate from the Minister that all taxes collectable or payable under this Act by such wholesale dealer have been paid.*

The subsection is enlarged to permit a bulk sale where the Minister issues a certificate that an arrangement has been entered into that secures the payment of tax.

SECTION 3.—Subsection 1. Subsection 2 of section 8 of the Act now reads as follows:

- (2) *If any person who has collected any tax imposed by this Act fails to pay it over to the Treasurer at the time and in the manner prescribed by the regulations or by agreement made under the regulations, as the case may be, the amount thereof becomes a debt due to Her Majesty in right of Ontario and is a lien upon the property in Ontario of the person in default and, subject to the Bankruptcy Act (Canada), has priority over all other claims of other persons, and it shall bear interest at the rate prescribed by the regulations from the day the amount was due until it is paid.*

The amendment removes the provisions relating to the payment of interest and fixing the rate thereof. Those provisions will now appear in the new section 8c.

Subsection 2. Subsection 3 of section 8 now reads as follows:

- (3) *For each twelve-month period commencing on the 1st day of April and not earlier than the 1st day of April, 1976, there may be paid to each wholesale dealer designated a collector under this Act or the regulations the lesser of,*

(a) *\$500; or*

(b) *the aggregate of,*

- (i) *3 per cent of the tax collected by him in such period and shown in a return that is made in accordance with this Act and the regulations and in which the tax shown to have been so collected is \$67 or more,*
- (ii) *\$2 for each return with respect to tax collected by him in such period that is made in accordance with this Act and the regulations and in which the tax shown to have been so collected exceeds \$2 and is less than \$67, and*
- (iii) *the tax collected by him in such period and shown on a return that is made in accordance with this Act and the regulations and in which the tax shown to have been so collected does not exceed \$2,*

as compensation for his services in collecting and remitting the tax imposed by this Act, and such collector may deduct such compensation from the amount otherwise to be remitted to the Treasurer in accordance with this Act and the regulations.

The amendments increase the compensation for a wholesale dealer who collects tax. The rate of compensation is increased from 3 to 4 per cent. The maximum compensation payable in any year is increased from \$500 to \$700.

SECTION 4. This amendment adds nine new sections to the Act.

The new section 8*a* provides, in subsections 1 and 2, for the making of returns to the Minister and for the verification of those returns. This provision is presently in the regulations under the Act. Subsection 3 provides for the payment of a penalty on assessment therefor for the late filing of a return. The penalty is 5 per cent of the tax covered by the return, but not less than \$10 and not more than \$500. Subsections 4 and 5 provide offences for the failure to file a return and for filing an incomplete return. The fine that may be imposed for such offence is \$200.

The new section 8*b* adds provisions enabling the Minister to assess the tax payable under the Act. These assessment provisions are similar to those in other revenue statutes, and will replace the limited provision for assessment now contained in the regulations under the Act.

The new section 8*c* deals, in subsection 1, with interest on unpaid taxes, in subsection 2 with the application of payments first to discharge interest, and in subsection 3, the Minister is enabled to relieve against full payment of interest in special circumstances.

The new section 8*d* provides a procedure, similar to other revenue statutes, to enable a person who has been assessed to object to the assessment, and requires the Minister to consider the objection and make a decision confirming or varying the assessment.

The new section 8*e* provides a procedure, similar to other revenue statutes, to enable a person assessed to appeal the assessment to the Supreme Court and to provide for the Minister to give a reply to bring the matter before the Court.

The new section 10*a* provides, as in other revenue statutes, for actions by the Minister to recover or collect tax and for the issue of a warrant of execution having the same force and effect as a writ of execution to collect unpaid taxes. Subsection 2 allows proof by affidavit of certain evidentiary matters. Subsection 3 ensures that the remedies for tax collection and recovery provided in the Act may be exercised independently so that the use of one remedy will not bar the use of others.

The new section 10*b* adds the garnishment procedures in other revenue statutes. Where a taxpayer who owes money to the Crown is, in turn, owed money by another person the new section provides a procedure by which the Minister can garnish the debt of that person to the taxpayer to discharge the taxpayer's obligation to the Crown.

The new section 11*a* provides a penalty to be imposed on a collector who fails to collect the tax that, as agent of the Minister, he is required to collect under the Act and the regulations.

The new section 11*b* provides that the officers of a corporation that commit an offence under the Act are guilty of that offence if they took part in authorizing the corporation to commit it.

- (iii) the tax collected by him in such period and shown on a return that is made in accordance with this Act and the regulations and in which the tax shown to have been so collected does not exceed \$3,

4. The said Act is amended by adding thereto the following sections:

ss. 8a-8e,
10a, 10b,
11a, 11b,
enacted

8a.—(1) Every person designated a collector according to the regulations shall, without notice or demand, deliver to the Minister, at the time and in the manner prescribed by the regulations, a return of tax, that he, as agent of the Minister, is responsible to collect, and shall, at the time and in the manner prescribed by the regulations, remit such tax with his return.

Returns by
collector

(2) Every return shall be verified by a certificate of the person designated a collector according to the regulations and, if such person is not an individual, of any one of its officers or servants or its resident manager or representative in Ontario, certifying that the financial and other statements of information included therein or attached thereto are in agreement with the books of such person and exhibit truly, correctly and completely all information for the period covered by the return.

Idem

(3) Every person designated a collector according to the regulations who files a return after the time prescribed by the regulations shall pay, when assessed therefor, a penalty of,

Penalty for
late filing

(a) \$10; or

(b) 5 per cent of the tax payable by him and 5 per cent of the tax collectable by him,

whichever is the greater, but in no case shall such penalty be more than \$500.

(4) Every person designated a collector according to the regulations who fails to file a return as required by this Act or the regulations is guilty of an offence and on summary conviction is liable to a fine of \$200.

Offence

(5) Every person designated a collector according to the regulations who fails to complete the information required in the return to be delivered to the Minister under subsection 1 is guilty of an offence and on summary conviction is liable to a fine of \$200.

Idem

Assessment

8b.—(1) The Minister may, at any time he considers reasonable, assess or reassess any tax that any person, as agent of the Minister, has collected and has failed to remit and any tax, interest or penalty, as the case may be, payable by him for which he has not accounted.

Assessment
on inspection

(2) Where it appears from an inspection, audit or examination of the books of account, records or documents of any consumer or dealer that this Act or the regulations have not been complied with, the person making the inspection, audit or examination shall calculate the tax collectable or payable in such manner and form and by such procedure as the Minister considers adequate and expedient, and the Minister shall assess the amount of tax that any person as agent of the Minister has collected and has failed to remit and the amount of the tax, interest or penalty, as the case may be, payable by him for which he has not accounted.

Notice of
Assessment

(3) Where the Minister has made an assessment under subsection 1 or 2, he shall deliver a notice of assessment by personal service or shall send such notice of assessment by mail or registered mail to the person so assessed at his last known address, or where the person has more than one address, one of which is in Ontario, to his address in Ontario, and the amount of the assessment shall, subject to subsection 4, be remitted to the Treasurer by the person so assessed within thirty days from the date of personal service or mailing of the notice of assessment.

Idem

(4) Where the Minister has made an assessment under subsection 1 or 2, the notice of assessment may provide that the amount assessed is payable forthwith.

Continuation
of liability
for tax

(5) Liability for tax imposed by this Act is not affected by an incorrect or incomplete assessment or by the fact that no assessment has been made.

Minister
not bound
by returns

(6) The Minister is not bound by a return or information delivered by or on behalf of any person under this Act and may, notwithstanding that any return or information has been delivered, assess the tax payable under this Act.

Assessment
valid and
binding

(7) An assessment, subject to being varied or vacated on an objection or appeal and subject to a reassessment, shall be deemed to be valid and binding notwithstanding any error, defect or omission therein or in any proceeding under this Act relating thereto.

Idem

(8) The amount of any assessment is payable within the time required by the notice of assessment whether or not

an objection or appeal from the assessment is made or taken.

8c.—(1) Any amount that is payable or to be remitted to the Treasurer under this Act or the regulations, or that is payable as a penalty imposed under this Act otherwise than a penalty imposed as a result of a prosecution for an offence under this Act, bears interest at the rate prescribed by the regulations from the day on which the amount should have been paid or remitted to the day of payment. Unpaid taxes to bear interest

(2) Any payment to the Treasurer under this Act that is not a fine shall first be applied to any interest payable by the person making a payment or on whose account payment is made. Payment applied first to interest

(3) Where, owing to special circumstances, it is considered inequitable that the whole amount of interest payable by any person under this Act be paid, the Minister may exempt the person from any payment of the whole or any part of such interest. Exemption from payment of interest

8d.—(1) Where a person objects to an assessment made under section 8b, he may, within ninety days from the day of mailing or delivery by personal service of the notice of assessment, serve on the Minister a notice of objection in duplicate in the form prescribed by the regulations setting out the reasons for the objection and all relevant facts. Notice of objection

(2) A notice of objection under this section shall be served by being sent by registered mail addressed to the Minister. Service

(3) Upon receipt of a notice of objection, the Minister shall with all due dispatch reconsider the assessment and vacate, confirm or vary the assessment or reassess, and he shall thereupon notify the person who has made the objection of his action by registered mail. Reconsideration

8e.—(1) After the Minister has given the notification required by subsection 3 of section 8d, a person who has served notice of objection under section 8d may appeal to the Supreme Court to have the assessment vacated or varied or reassessed, but no appeal under this section shall be instituted after the expiration of ninety days from the day notice has been mailed to such person under subsection 3 of section 8d and an appeal under this section shall not be made to the Divisional Court. Appeal

(2) An appeal to the Supreme Court shall be instituted by serving on the Minister a notice of appeal in duplicate Appeal, how instituted

in the form prescribed by the regulations and by filing a copy thereof with the Registrar of the Supreme Court or with the local registrar of the Supreme Court for the county or district in which the person appealing resides or has his place of business.

Service

(3) A notice of appeal shall be served on the Minister by being sent by registered mail addressed to the Minister.

Content of
notice of
appeal

(4) The person appealing shall set out in the notice of appeal a statement of the allegations of fact and the statutory provisions and reasons that he intends to submit in supporting his appeal.

Reply to
notice of
appeal

(5) After the service on him of a notice of appeal under this section, the Minister shall with all due dispatch serve on the person appealing and file in the Supreme Court where the notice of appeal was filed a reply to the notice of appeal admitting or denying the facts alleged and containing a statement of such further allegations of fact and of such statutory provisions and reasons as he intends to rely on.

Matter
deemed
action

(6) Upon the filing of the material referred to in subsection 5, the matter shall be deemed to be an action in the court.

Disposition
of appeal

(7) The court may dispose of the appeal by,

(a) dismissing it;

(b) allowing it; or

(c) allowing it, and

(i) vacating the assessment,

(ii) varying the assessment,

(iii) restoring the original assessment, or

(iv) referring the assessment back to the Minister for reconsideration and reassessment.

Idem

(8) The court may, in delivering judgment disposing of an appeal, order payment or refund of tax by the appellant or by the Treasurer, as the case may be, and may make such order as to costs as is considered proper.

Procedure

(9) The practice and procedure of the Supreme Court, including the right of appeal and the practice and procedure

relating to appeals, apply to every matter that is deemed to be an action under subsection 6, and every judgment and order given or made in every such action may be enforced in the same manner and by the like process as a judgment or order given or made in an action commenced in the court.

(10) No assessment shall be vacated or varied on appeal by reason only of an irregularity, informality, omission or error on the part of any person in the observance of any directory provision of this Act. Irregularities

(11) The time within which a notice of objection under subsection 1 of section 8*d* or a notice of appeal under subsection 1 of this section is to be served may be extended by the Minister if application for extension is made before expiration of the time for service of the notice of objection or notice of appeal, as the case may be. Extension of time

10*a*.—(1) Upon default of payment of an amount assessed under section 8*b*, Recovery of tax

(*a*) the Minister may bring an action for recovery thereof in any court in which a debt or money demand of a similar amount may be collected, and every such action shall be brought and executed in and by the name of the Minister or his name of office and may be continued by his successor in office as if no change had occurred and shall be tried without a jury; and

(*b*) the Minister may issue a warrant directed to the sheriff of any county or district in which any property of a person liable to make a payment or remittance under this Act is located or situate for the amount of the tax, interest and penalty or any of them owing by him, together with interest thereon from the date of the issue of the warrant and the costs and expenses of the sheriff, and such warrant has the same force and effect as a writ of execution issued out of the Supreme Court.

(2) For the purpose of any proceeding taken under this Act, the facts necessary to establish compliance on the part of the Minister with this Act as well as the failure of any person, partnership, syndicate, trust or corporation to comply with the requirements of this Act shall, unless evidence to the contrary satisfactory to the court is adduced, Compliance to be proved by affidavit

be sufficiently proved in any court of law by affidavit of the Minister or of any officer of the Ministry of Revenue.

Remedies
for recovery
of tax

(3) The use of any of the remedies provided by this section does not bar or affect any of the other remedies therein provided, and the remedies provided by this Act for the recovery and enforcement of the payment of any tax imposed by this Act are in addition to any other remedies existing by law, and no action or other proceeding taken in any way prejudices, limits or affects any lien, charge or priority existing under this Act or at law in favour of Her Majesty in right of Ontario.

Garnishment

10*b*.—(1) When the Minister has knowledge or suspects that a person is or is about to become indebted or liable to make any payment to a person liable to make a payment or remittance under this Act, he may, by registered letter or by a letter served personally, require the first-named person to pay the moneys otherwise payable to the second-named person in whole or in part to the Treasurer on account of the liability under this Act.

Idem

(2) The receipt of the Treasurer for moneys paid as required under this section is a good and sufficient discharge of the original liability to the extent of the payment.

Liability
of debtor

(3) Every person who has discharged any liability to a person liable to make a payment or remittance under this Act without complying with the requirements under this section is liable to pay to the Treasurer an amount equal to the liability discharged or the amount he was required under this section to pay to the Treasurer, whichever is the lesser.

Service of
garnishee

(4) Where a person who is or is about to become indebted or liable to make a payment to a person liable to make a payment or remittance under this Act carries on business under a name and style other than his own name, the registered or other letter under subsection 1 may be addressed to the name or style under which he carries on business and, in the case of personal service, shall be deemed to have been validly served if it has been left with an adult person employed at the place of business of the addressee.

Idem

(5) Where persons who are or are about to become indebted or liable to make a payment to a person liable to make a payment or remittance under this Act carry on business in partnership, the registered or other letter under subsection 1 may be addressed to the partnership name and, in the case of personal service, shall be deemed to have been

SECTION 5. The new subsection 2 makes it an offence for a person who is buying tobacco for resale, and is therefore not a consumer, to buy tobacco from anyone who is not a collector under the Act and charged with the enforcement of the collection of tax as agent of the Minister.

validly served if it has been served on one of the partners or left with an adult person employed at the place of business of the partnership.

(6) Subject to *The Wages Act*, where the Minister has under this section required an employer to pay to the Treasurer on account of an employee's liability under this Act moneys otherwise payable by the employer to the employee as remuneration, the requirement is applicable to all future payments by the employer to the employee in respect of remuneration until the liability under this Act is satisfied and operates to require payments to the Treasurer out of each payment of remuneration of such amount as may be stipulated by the Minister in the registered letter or letter served personally.

Garnishment
of wages
R.S.O. 1970,
c. 486

(7) Where any person, without reasonable excuse, has failed to remit to the Treasurer the moneys as required under this section, the Minister may apply before a judge of the Supreme Court for an order directing such person to remit the moneys which he has failed to remit.

Failure
to remit

.

11a. Every dealer who has failed to collect tax that he is responsible to collect under this Act or the regulations shall pay a penalty, when assessed therefor, equal to not more than twice the amount of tax that he failed to collect.

Penalty for
failure to
collect

11b. Any officer, director or agent of a corporation who directed, authorized, assented to, acquiesced in or participated in the commission of any act that is an offence under this Act for which the corporation would be liable for prosecution is guilty of an offence and on summary conviction is liable to the punishment provided for the offence whether or not the corporation has been prosecuted or convicted.

Liability of
officers of
corporations

5. Section 13 of the said Act is amended by adding thereto the following subsection:

s. 13.
amended

(2) Every person who purchases tobacco for resale from any person who is not designated a collector according to the regulations is guilty of an offence and on summary conviction is liable to a fine of not less than the amount of tax that would be exigible on the tobacco so purchased by him if such tobacco had been purchased by a consumer and not more than an amount equal to twice the amount of such tax so ascertained and is in addition liable to imprisonment for a term not exceeding six months.

Offence

ss. 15a, 15b,
enacted

6. The said Act is further amended by adding thereto the following sections:

Over-
payments

15a.—(1) Where a person has remitted to the Treasurer a greater amount of money for a period than was required by this Act to be remitted for that period, or a greater amount than was payable by the person, the Treasurer shall either refund the overpayment or, at the option of the Minister, apply the amount of the overpayment to liability of the person with respect to a previous or subsequent period, in which latter case the Minister shall notify the person of such action.

Idem

(2) Where an amount in respect of an overpayment is refunded or applied on other liability, interest at such rate as is prescribed by the regulations shall be paid or applied thereon for the period commencing on the day the overpayment arose and ending with the day of refunding or application on other liability, unless the amount of interest so calculated is less than \$5 in which event no interest need be paid or applied under this subsection.

Idem

(3) Where by a decision of the Minister under section 8d or by a decision of the court it is finally determined that the tax payable under this Act by a person is less than the amount assessed by the assessment to which objection was made or from which the appeal was taken and the decision makes it appear that there has been an overpayment of tax, the interest payable under subsection 2 on the overpayment shall be computed at the rate prescribed by the regulations.

Refunds

15b. Any amount refunded under this Act in excess of the amount to which the person receiving the refund was entitled shall be deemed to be tax owing to the Treasurer, and the sections of this Act relating to the assessment (including objection and appeal therefrom) and collection of taxes apply *mutatis mutandis* to the said amount.

s. 16 (1) (n),
repealed

- 7.—(1) Clause *n* of subsection 1 of section 16 of the said Act is repealed.

s. 16,
amended

- (2) The said section 16, as amended by the Statutes of Ontario, 1972, chapter 16, section 2 and 1976, chapter 24, section 3, is further amended by adding thereto the following subsection:

Minister
may
prescribe
forms

(1a) The Minister may make regulations prescribing any form required by this Act or the regulations or that, in his opinion, will assist in the administration of this Act, and prescribing how and by whom any form shall be completed and what information it shall contain.

SECTION 6. The amendment adds two new sections.

The new section 15*a* provides that overpayments of tax are to be refunded or may be applied against other liability to the Treasurer of the person who made the overpayment. Interest on such overpayments will be paid if the amount of interest is not less than \$5.

The new section 15*b* provides that where an excessive refund has been made, the overpayment by the Treasurer may be recovered by the Minister in the same way as tax under the Act may be recovered or collected.

SECTION 7. The clause that is repealed by subsection 1 enabled the Lieutenant Governor in Council to prescribe forms for the purpose of the Act. This power is given to the Minister (subsection 2) which is in keeping with other revenue statutes.

SECTION 8. This substantive section validates the increased tobacco tax levied and collected during the period between the 1st reading, at the last session of the Legislature, of Bill 45, an Act to amend The Tobacco Tax Act, and the day of the dissolution of the Legislature.

This present Bill re-imposes the same increases in tax on tobacco products as were embodied in Bill 45.

8. The tax levied and collected under *The Tobacco Tax Act* in respect of purchases of tobacco made during the period from and including the 20th day of April, 1977 to and including the 29th day of April, 1977 that would have been lawfully levied and collected had subsection 1 of section 2 of *The Tobacco Tax Act*, as re-enacted by subsection 1 of section 1 of this Act, been in force during that period shall be deemed to have been lawfully levied and collected. ^{Tax deemed lawfully levied}
- 9.—(1) This Act, except subsection 2 of section 3, shall be deemed to have come into force on the 28th day of June, 1977. ^{Commencement}
- (2) Subsection 2 of section 3 shall be deemed to have come into force on the 1st day of April, 1977. ^{Idem}
10. The short title of this Act is *The Tobacco Tax Amendment Act, 1977*. ^{Short title}

An Act to amend
The Tobacco Tax Act

1st Reading

June 27th, 1977

2nd Reading

3rd Reading

THE HON. W. D. McKEOUGH
Treasurer of Ontario and
Minister of Economics and
Intergovernmental Affairs

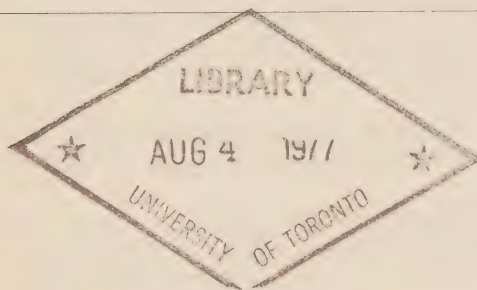
(Government Bill)

BILL 10

1ST SESSION, 31ST LEGISLATURE, ONTARIO
26 ELIZABETH II, 1977

An Act to amend The Tobacco Tax Act

THE HON. W. D. McKEOUGH
Treasurer of Ontario and Minister of Economics and
Intergovernmental Affairs



TORONTO

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BILL 10

1977

An Act to amend The Tobacco Tax Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

- 1.—(1) Subsection 1 of section 2 of *The Tobacco Tax Act*, being ^{s. 2(1),} chapter 463 of the Revised Statutes of Ontario, 1970, ^{re-enacted} as re-enacted by the Statutes of Ontario, 1972, chapter 16, section 1 and amended by the Statutes of Ontario, 1976, chapter 24, section 1, is repealed and the following substituted therefor:

(1) Every consumer shall pay to Her Majesty in right of ^{Tax on} Ontario a tax computed as follows:

- (a) ninety-six one-hundredths of 1 cent on every cigarette purchased by him;
 - (b) thirty-five one-hundredths of 1 cent on every gram or part thereof of any tobacco, other than cigarettes or cigars, purchased by him;
 - (c) 2 cents on every cigar purchased by him for a price at retail of not more than 7 cents;
 - (d) 4 cents on every cigar purchased by him for a price at retail of more than 7 cents but not more than 10 cents; and
 - (e) 6 cents on every cigar purchased by him for a price at retail of more than 10 cents but not more than 15 cents, and thereafter an additional 2 cents for each additional 5 cents that the price at retail of a cigar purchased by him exceeds 15 cents.
- (2) The said section 2 is amended by adding thereto the ^{s. 2,} following subsection: ^{amended}

Amounts in
lieu of tax

(4) Where any person selling tobacco receives any payment made as or in lieu of the tax payable under this Act, such payment shall be dealt with and accounted for as tax under this Act, and any person who fails to deal with and account for such payment in accordance with this Act and the regulations is liable to the same penalties and fines, and is guilty of the same offences, as would apply if the payment were the tax payable under this Act, and the Minister may collect and receive such payment by the same remedies and procedures as are provided by this Act or the regulations for the collection and enforcement of the tax payable under this Act.

s. 6 (1),
re-enacted

2. Subsection 1 of section 6 of the said Act is repealed and the following substituted therefor:

Sales of
tobacco
under
R.S.O. 1970,
c. 52

(1) No wholesale dealer shall dispose of his stock through a sale in bulk as defined in *The Bulk Sales Act* without first obtaining a certificate in duplicate from the Minister that all taxes collectable or payable under this Act by such wholesale dealer have been paid or that such person has entered into an arrangement satisfactory to the Minister for the payment of such taxes or for securing their payment.

s. 8 (2),
amended

- 3.—(1) Subsection 2 of section 8 of the said Act is amended by striking out “and it shall bear interest at the rate prescribed by the regulations from the day the amount was due until it is paid” in the eighth, ninth and tenth lines.

s. 8 (3) (a, b),
re-enacted

- (2) Clauses *a* and *b* of subsection 3 of the said section 8, as enacted by the Statutes of Ontario, 1976, chapter 24, section 2, are repealed and the following substituted therefor:

(a) \$700; or

(b) the aggregate of,

- (i) 4 per cent of the tax collected by him in such period and shown in a return that is made in accordance with this Act and the regulations and in which the tax shown to have been so collected is \$75 or more,
- (ii) \$3 for each return with respect to tax collected by him in such period that is made in accordance with this Act and the regulations and in which the tax shown to have been so collected exceeds \$3 and is less than \$75, and

- (iii) the tax collected by him in such period and shown on a return that is made in accordance with this Act and the regulations and in which the tax shown to have been so collected does not exceed \$3,

4. The said Act is amended by adding thereto the following sections:

ss. 8a-8e,
10a, 10b,
11a, 11b,
enacted

8a.—(1) Every person designated a collector according to the regulations shall, without notice or demand, deliver to the Minister, at the time and in the manner prescribed by the regulations, a return of tax, that he, as agent of the Minister, is responsible to collect, and shall, at the time and in the manner prescribed by the regulations, remit such tax with his return.

Returns by
collector

(2) Every return shall be verified by a certificate of the person designated a collector according to the regulations and, if such person is not an individual, of any one of its officers or servants or its resident manager or representative in Ontario, certifying that the financial and other statements of information included therein or attached thereto are in agreement with the books of such person and exhibit truly, correctly and completely all information for the period covered by the return.

Idem

(3) Every person designated a collector according to the regulations who files a return after the time prescribed by the regulations shall pay, when assessed therefor, a penalty of,

Penalty for
late filing

(a) \$10; or

(b) 5 per cent of the tax payable by him and 5 per cent of the tax collectable by him,

whichever is the greater, but in no case shall such penalty be more than \$500.

(4) Every person designated a collector according to the regulations who fails to file a return as required by this Act or the regulations is guilty of an offence and on summary conviction is liable to a fine of \$200.

Offence

(5) Every person designated a collector according to the regulations who fails to complete the information required in the return to be delivered to the Minister under subsection 1 is guilty of an offence and on summary conviction is liable to a fine of \$200.

Idem

Assessment

8b.—(1) The Minister may, at any time he considers reasonable, assess or reassess any tax that any person, as agent of the Minister, has collected and has failed to remit and any tax, interest or penalty, as the case may be, payable by him for which he has not accounted.

Assessment
on inspection

(2) Where it appears from an inspection, audit or examination of the books of account, records or documents of any consumer or dealer that this Act or the regulations have not been complied with, the person making the inspection, audit or examination shall calculate the tax collectable or payable in such manner and form and by such procedure as the Minister considers adequate and expedient, and the Minister shall assess the amount of tax that any person as agent of the Minister has collected and has failed to remit and the amount of the tax, interest or penalty, as the case may be, payable by him for which he has not accounted.

Notice of
Assessment

(3) Where the Minister has made an assessment under subsection 1 or 2, he shall deliver a notice of assessment by personal service or shall send such notice of assessment by mail or registered mail to the person so assessed at his last known address, or where the person has more than one address, one of which is in Ontario, to his address in Ontario, and the amount of the assessment shall, subject to subsection 4, be remitted to the Treasurer by the person so assessed within thirty days from the date of personal service or mailing of the notice of assessment.

Idem

(4) Where the Minister has made an assessment under subsection 1 or 2, the notice of assessment may provide that the amount assessed is payable forthwith.

Continuation
of liability
for tax

(5) Liability for tax imposed by this Act is not affected by an incorrect or incomplete assessment or by the fact that no assessment has been made.

Minister
not bound
by returns

(6) The Minister is not bound by a return or information delivered by or on behalf of any person under this Act and may, notwithstanding that any return or information has been delivered, assess the tax payable under this Act.

Assessment
valid and
binding

(7) An assessment, subject to being varied or vacated on an objection or appeal and subject to a reassessment, shall be deemed to be valid and binding notwithstanding any error, defect or omission therein or in any proceeding under this Act relating thereto.

Idem

(8) The amount of any assessment is payable within the time required by the notice of assessment whether or not

an objection or appeal from the assessment is made or taken.

8c.—(1) Any amount that is payable or to be remitted to the Treasurer under this Act or the regulations, or that is payable as a penalty imposed under this Act otherwise than a penalty imposed as a result of a prosecution for an offence under this Act, bears interest at the rate prescribed by the regulations from the day on which the amount should have been paid or remitted to the day of payment. Unpaid taxes to bear interest

(2) Any payment to the Treasurer under this Act that is not a fine shall first be applied to any interest payable by the person making a payment or on whose account payment is made. Payment applied first to interest

(3) Where, owing to special circumstances, it is considered inequitable that the whole amount of interest payable by any person under this Act be paid, the Minister may exempt the person from any payment of the whole or any part of such interest. Exemption from payment of interest

8d.—(1) Where a person objects to an assessment made under section 8b, he may, within ninety days from the day of mailing or delivery by personal service of the notice of assessment, serve on the Minister a notice of objection in duplicate in the form prescribed by the regulations setting out the reasons for the objection and all relevant facts. Notice of objection

(2) A notice of objection under this section shall be served by being sent by registered mail addressed to the Minister. Service

(3) Upon receipt of a notice of objection, the Minister shall with all due dispatch reconsider the assessment and vacate, confirm or vary the assessment or reassess, and he shall thereupon notify the person who has made the objection of his action by registered mail. Recon-sideration

8e.—(1) After the Minister has given the notification required by subsection 3 of section 8d, a person who has served notice of objection under section 8d may appeal to the Supreme Court to have the assessment vacated or varied or reassessed, but no appeal under this section shall be instituted after the expiration of ninety days from the day notice has been mailed to such person under subsection 3 of section 8d and an appeal under this section shall not be made to the Divisional Court. Appeal

(2) An appeal to the Supreme Court shall be instituted by serving on the Minister a notice of appeal in duplicate Appeal, how instituted

in the form prescribed by the regulations and by filing a copy thereof with the Registrar of the Supreme Court or with the local registrar of the Supreme Court for the county or district in which the person appealing resides or has his place of business.

Service

(3) A notice of appeal shall be served on the Minister by being sent by registered mail addressed to the Minister.

Content of
notice of
appeal

(4) The person appealing shall set out in the notice of appeal a statement of the allegations of fact and the statutory provisions and reasons that he intends to submit in supporting his appeal.

Reply to
notice of
appeal

(5) After the service on him of a notice of appeal under this section, the Minister shall with all due dispatch serve on the person appealing and file in the Supreme Court where the notice of appeal was filed a reply to the notice of appeal admitting or denying the facts alleged and containing a statement of such further allegations of fact and of such statutory provisions and reasons as he intends to rely on.

Matter
deemed
action

(6) Upon the filing of the material referred to in subsection 5, the matter shall be deemed to be an action in the court.

Disposition
of appeal

(7) The court may dispose of the appeal by,

(a) dismissing it;

(b) allowing it; or

(c) allowing it, and

(i) vacating the assessment,

(ii) varying the assessment,

(iii) restoring the original assessment, or

(iv) referring the assessment back to the Minister for reconsideration and reassessment.

Idem

(8) The court may, in delivering judgment disposing of an appeal, order payment or refund of tax by the appellant or by the Treasurer, as the case may be, and may make such order as to costs as is considered proper.

Procedure

(9) The practice and procedure of the Supreme Court, including the right of appeal and the practice and procedure

relating to appeals, apply to every matter that is deemed to be an action under subsection 6, and every judgment and order given or made in every such action may be enforced in the same manner and by the like process as a judgment or order given or made in an action commenced in the court.

(10) No assessment shall be vacated or varied on appeal ^{Irregularities} by reason only of an irregularity, informality, omission or error on the part of any person in the observance of any directory provision of this Act.

(11) The time within which a notice of objection under ^{Extension of time} subsection 1 of section 8*d* or a notice of appeal under subsection 1 of this section is to be served may be extended by the Minister if application for extension is made before expiration of the time for service of the notice of objection or notice of appeal, as the case may be.

10*a*.—(1) Upon default of payment of an amount assessed ^{Recovery of tax} under section 8*b*,

(*a*) the Minister may bring an action for recovery thereof in any court in which a debt or money demand of a similar amount may be collected, and every such action shall be brought and executed in and by the name of the Minister or his name of office and may be continued by his successor in office as if no change had occurred and shall be tried without a jury; and

(*b*) the Minister may issue a warrant directed to the sheriff of any county or district in which any property of a person liable to make a payment or remittance under this Act is located or situate for the amount of the tax, interest and penalty or any of them owing by him, together with interest thereon from the date of the issue of the warrant and the costs and expenses of the sheriff, and such warrant has the same force and effect as a writ of execution issued out of the Supreme Court.

(2) For the purpose of any proceeding taken under this Act, the facts necessary to establish compliance on the ^{Compliance to be proved by affidavit} part of the Minister with this Act as well as the failure of any person, partnership, syndicate, trust or corporation to comply with the requirements of this Act shall, unless evidence to the contrary satisfactory to the court is adduced,

be sufficiently proved in any court of law by affidavit of the Minister or of any officer of the Ministry of Revenue.

Remedies
for recovery
of tax

(3) The use of any of the remedies provided by this section does not bar or affect any of the other remedies therein provided, and the remedies provided by this Act for the recovery and enforcement of the payment of any tax imposed by this Act are in addition to any other remedies existing by law, and no action or other proceeding taken in any way prejudices, limits or affects any lien, charge or priority existing under this Act or at law in favour of Her Majesty in right of Ontario.

Garnishment

10b.—(1) When the Minister has knowledge or suspects that a person is or is about to become indebted or liable to make any payment to a person liable to make a payment or remittance under this Act, he may, by registered letter or by a letter served personally, require the first-named person to pay the moneys otherwise payable to the second-named person in whole or in part to the Treasurer on account of the liability under this Act.

Idem

(2) The receipt of the Treasurer for moneys paid as required under this section is a good and sufficient discharge of the original liability to the extent of the payment.

Liability
of debtor

(3) Every person who has discharged any liability to a person liable to make a payment or remittance under this Act without complying with the requirements under this section is liable to pay to the Treasurer an amount equal to the liability discharged or the amount he was required under this section to pay to the Treasurer, whichever is the lesser.

Service of
garnishee

(4) Where a person who is or is about to become indebted or liable to make a payment to a person liable to make a payment or remittance under this Act carries on business under a name and style other than his own name, the registered or other letter under subsection 1 may be addressed to the name or style under which he carries on business and, in the case of personal service, shall be deemed to have been validly served if it has been left with an adult person employed at the place of business of the addressee.

Idem

(5) Where persons who are or are about to become indebted or liable to make a payment to a person liable to make a payment or remittance under this Act carry on business in partnership, the registered or other letter under subsection 1 may be addressed to the partnership name and, in the case of personal service, shall be deemed to have been

validly served if it has been served on one of the partners or left with an adult person employed at the place of business of the partnership.

(6) Subject to *The Wages Act*, where the Minister has under this section required an employer to pay to the Treasurer on account of an employee's liability under this Act moneys otherwise payable by the employer to the employee as remuneration, the requirement is applicable to all future payments by the employer to the employee in respect of remuneration until the liability under this Act is satisfied and operates to require payments to the Treasurer out of each payment of remuneration of such amount as may be stipulated by the Minister in the registered letter or letter served personally.

Garnishment
of wages
R.S.O. 1970,
c. 486

(7) Where any person, without reasonable excuse, has failed to remit to the Treasurer the moneys as required under this section, the Minister may apply before a judge of the Supreme Court for an order directing such person to remit the moneys which he has failed to remit.

Failure
to remit

11a. Every dealer who has failed to collect tax that he is responsible to collect under this Act or the regulations shall pay a penalty, when assessed therefor, equal to not more than twice the amount of tax that he failed to collect.

Penalty for
failure to
collect

11b. Any officer, director or agent of a corporation who directed, authorized, assented to, acquiesced in or participated in the commission of any act that is an offence under this Act for which the corporation would be liable for prosecution is guilty of an offence and on summary conviction is liable to the punishment provided for the offence whether or not the corporation has been prosecuted or convicted.

Liability of
officers of
corporations

5. Section 13 of the said Act is amended by adding thereto the following subsection:

s. 13,
amended

(2) Every person who purchases tobacco for resale from any person who is not designated a collector according to the regulations is guilty of an offence and on summary conviction is liable to a fine of not less than the amount of tax that would be exigible on the tobacco so purchased by him if such tobacco had been purchased by a consumer and not more than an amount equal to twice the amount of such tax so ascertained and is in addition liable to imprisonment for a term not exceeding six months.

Offence

ss. 15a, 15b,
enacted

6. The said Act is further amended by adding thereto the following sections:

Over-
payments

15a.—(1) Where a person has remitted to the Treasurer a greater amount of money for a period than was required by this Act to be remitted for that period, or a greater amount than was payable by the person, the Treasurer shall either refund the overpayment or, at the option of the Minister, apply the amount of the overpayment to liability of the person with respect to a previous or subsequent period, in which latter case the Minister shall notify the person of such action.

Idem

(2) Where an amount in respect of an overpayment is refunded or applied on other liability, interest at such rate as is prescribed by the regulations shall be paid or applied thereon for the period commencing on the day the overpayment arose and ending with the day of refunding or application on other liability, unless the amount of interest so calculated is less than \$5 in which event no interest need be paid or applied under this subsection.

Idem

(3) Where by a decision of the Minister under section 8d or by a decision of the court it is finally determined that the tax payable under this Act by a person is less than the amount assessed by the assessment to which objection was made or from which the appeal was taken and the decision makes it appear that there has been an overpayment of tax, the interest payable under subsection 2 on the overpayment shall be computed at the rate prescribed by the regulations.

Refunds

15b. Any amount refunded under this Act in excess of the amount to which the person receiving the refund was entitled shall be deemed to be tax owing to the Treasurer, and the sections of this Act relating to the assessment (including objection and appeal therefrom) and collection of taxes apply *mutatis mutandis* to the said amount.

s. 16 (1) (n),
repealed

7.—(1) Clause *n* of subsection 1 of section 16 of the said Act is repealed.

s. 16,
amended

(2) The said section 16, as amended by the Statutes of Ontario, 1972, chapter 16, section 2 and 1976, chapter 24, section 3, is further amended by adding thereto the following subsection:

Minister
may
prescribe
forms

(1a) The Minister may make regulations prescribing any form required by this Act or the regulations or that, in his opinion, will assist in the administration of this Act, and prescribing how and by whom any form shall be completed and what information it shall contain.

8. The tax levied and collected under *The Tobacco Tax Act* in respect of purchases of tobacco made during the period from and including the 20th day of April, 1977 to and including the 29th day of April, 1977 that would have been lawfully levied and collected had subsection 1 of section 2 of *The Tobacco Tax Act*, as re-enacted by subsection 1 of section 1 of this Act, been in force during that period shall be deemed to have been lawfully levied and collected. ^{Tax deemed lawfully levied}
- 9.—(1) This Act, except subsection 2 of section 3, shall be deemed to have come into force on the 28th day of June, 1977. ^{Commence-ment}
- (2) Subsection 2 of section 3 shall be deemed to have come into force on the 1st day of April, 1977. ^{Idem}
10. The short title of this Act is *The Tobacco Tax Amendment Act, 1977*. ^{Short title}

BILL 10

An Act to amend
The Tobacco Tax Act

1st Reading

June 27th, 1977

2nd Reading

June 29th, 1977

3rd Reading

June 30th, 1977

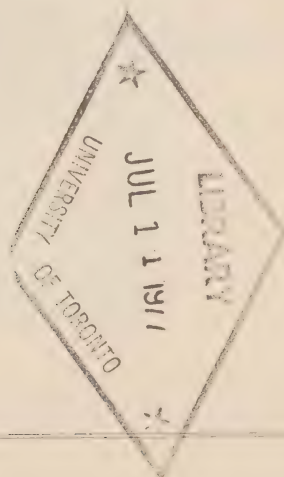
THE HON. W. D. McKEOUGH
Treasurer of Ontario and
Minister of Economics and
Intergovernmental Affairs

1ST SESSION, 31ST LEGISLATURE, ONTARIO
26 ELIZABETH II, 1977

Government
Publications

An Act to provide Employment Opportunities for
Youth in Ontario

THE HON. W. D. McKEOUGH
Treasurer of Ontario and Minister of Economics and
Intergovernmental Affairs



TORONTO

PRINTED BY J. C. THATCHER, QUEEN'S PRINTER FOR ONTARIO

EXPLANATORY NOTE

The Bill provides for the establishment of a Youth Employment Program that will encourage the farming and business communities to increase employment of youth in Ontario by creating youth summer job opportunities and that will provide young people with work experience and skills to better equip them for full-time participation in the labour market.

The Bill enables the Lieutenant Governor in Council to establish a Youth Employment Program by regulation. Pursuant to such a Program, the Treasurer of Ontario may make employment grants to "eligible employers" who hire "eligible employees".

All employers, other than federal, provincial or municipal governments or their agencies, boards and commissions will be eligible for employment grants if they have been actively engaged in business or farming in Ontario for at least one year immediately prior to the commencement of the Youth Employment Program.

Eligible employees are those who are,

- (a) resident in Ontario;
- (b) eligible to work in Ontario;
- (c) between the ages of fifteen and twenty-four years inclusive at the commencement of the Program; and
- (d) not related to the employer.

The Youth Employment Program established under the Bill will ensure that jobs created under the Program are in addition to those normally provided by the employer and will not result in the dismissal, lay-off or reduction in hours or period of work of any existing employees.

The Program will be subject to both ongoing and post-audit checks. The Bill contains provision for inspection to ensure that grants are properly made under the Program. Penalties are also provided for persons who obtain grants on the basis of false information.

BILL 11

1977

An Act to provide Employment Opportunities for Youth in Ontario

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. In this Act,

Interpre-
tation

- (a) "eligible employee" means a person who is resident and eligible to work in Ontario and who at the time of the commencement of the youth employment program has attained the age of fifteen years but has not attained the age of twenty-five years;
- (b) "eligible employer" means a person who has been actively engaged in business or farming in Ontario for at least one year immediately prior to the commencement of the youth employment program but does not include a municipality or local board thereof, the Government of Canada or the government of any province or any agency, board or commission thereof, or any person prescribed not to be eligible as an employer;
- (c) "employee" means an employee within the meaning of *The Employment Standards Act, 1974*; 1974, c. 112
- (d) "employer" means an employer within the meaning of *The Employment Standards Act, 1974*;
- (e) "farming" includes tillage of the soil, the breeding, raising or grazing of live stock of all kinds, the raising of poultry and the production of poultry products, fur-farming, dairy farming, fruit growing, the growing of food for human consumption or for the feeding of live stock and the keeping of bees;
- (f) "local board" means a local board as defined in *The Municipal Affairs Act*; R.S.O. 1970,
c. 118

- (g) "Minister" means the Treasurer of Ontario and Minister of Economics and Intergovernmental Affairs or such other member of the Executive Council as is designated by the Lieutenant Governor in Council to administer this Act;
- (h) "municipality" means a city, town, village, township or improvement district and includes a metropolitan, regional or district municipality;
- (i) "prescribed" means prescribed by the regulations;
- (j) "regulations" means the regulations made under this Act.

Purpose
of Act

2. The purpose of this Act is to provide for the establishment of a youth employment program that will encourage the farming and business communities in Ontario to achieve increased employment of youth in Ontario by creating new summer job opportunities and that will provide young people with work experience and skills that better equip them for full-time participation in the labour market.

Minister
may make
grants

3. The Minister may make grants in the prescribed amount to eligible employers who hire eligible employees in accordance with the terms and conditions of the youth employment program established under this Act.

Effect of
program

4.—(1) The youth employment program established under this Act shall ensure,

- (a) that employment created under the program is in addition to that normally provided by an employer and that it does not result in the dismissal, lay-off or reduction in regular hours or period of work of any existing employees of an employer; and
- (b) that employment is not provided under the program to an employee where the employer is a related person.

Interpre-
tation

(2) For the purposes of clause *b* of subsection 1, "related person" means,

- (i) any spouse, parent, son or daughter, brother or sister of the employee,
- (ii) any relative of the employee or of his spouse, other than a relative referred to in subclause i, who has the same home as the employee, or

- (iii) any body corporate of which the employee and any of the persons referred to in subclause i or ii or the partner or employer of the employee, either alone or in combination beneficially owns, directly or indirectly, equity shares carrying more than 50 per cent of the voting rights attached to all equity shares of a body corporate for the time being outstanding.

5.—(1) Every person who receives a grant or distribution ^{Returns} of money under this Act or the youth employment program shall, at such times and in such manner as may be prescribed, make a return to the Minister in such form as the Minister requires.

(2) Every person who fails to make a return as and when ^{Offence} required by subsection 1 is guilty of an offence and on summary conviction is liable to a fine not exceeding \$500.

6. The Minister, or any person designated by him in writing, ^{Inspection} may at all reasonable times enter into any premises or place where any business is carried on or any property is kept, or any thing is done in connection with any business or any books or records are or should be kept pursuant to the provisions of this Act or the regulations to ensure that the provisions of this Act and the regulations are being complied with.

7.—(1) Upon an inspection under section 6, the person ^{Powers of inspector} inspecting,

- (a) is entitled to free access to all books of account, cash, documents, bank accounts, vouchers, correspondence and records of every description of the person being inspected; and
- (b) may, upon giving a receipt therefor, remove any material referred to in clause *a* that relates to the purpose of the inspection for the purpose of making a copy thereof, providing that such copying is carried out with reasonable dispatch and the material in question is promptly thereafter returned to the person being inspected,

and no person shall obstruct the person inspecting or withhold or destroy, conceal or refuse to furnish any information or other thing required by the person inspecting for the purposes of the inspection.

(2) Any copy made as provided in subsection 1 and purport- ^{Copies} ing to be certified by the inspector is admissible in evidence

in any action, proceeding or prosecution as being of actual proof of the original.

Offence

(3) Every person who contravenes subsection 1 is guilty of an offence and on summary conviction is liable to a fine of not more than \$2,000, or if such person is a corporation, to a fine of not more than \$10,000.

Non-disclosure

(4) No person employed in the administration or enforcement of this Act shall disclose information obtained under this Act, except where the disclosure is necessary for the administration or enforcement of this Act or where the disclosure is required by a court for the purposes of an action, prosecution or proceeding.

Offence

8.—(1) Every person who makes or assists in making a statement in any document required by or for the purposes of this Act or the regulations that, at the time and in related circumstances under which it was made, is false or misleading in respect of any material fact or omits to state any material fact, the omission of which makes the statement false or misleading is guilty of an offence and on summary conviction is liable to a fine of not more than \$2,000, or if such person is a corporation, to a fine of not more than \$10,000.

Saving

(2) No person is guilty of an offence under subsection 1 if he did not know that the statement was false or misleading, and in the exercise of reasonable diligence could not have known that the statement was false or misleading.

Recovery of grant made on basis of false application

9. Where any person obtains a grant or disbursement of funds under this Act or the regulations, on the basis of information that is false or misleading or an application that contains any false or misleading statement, the amount of such grant or disbursement together with interest thereon at the prescribed rate, shall be deemed to be a debt due to the Crown and may be recovered by an action in a court of competent jurisdiction.

Regulations

10.—(1) The Lieutenant Governor in Council may make regulations establishing, amending or revoking a youth employment program and fixing the time of commencement and duration of the program, and, without restricting the generality of the foregoing,

(a) prescribing the amounts of grants that may be made under the program to employers;

(b) prescribing the terms and conditions upon which grants under the program may be made;

- (c) prescribing the manner in which eligibility for grants shall be determined;
- (d) prescribing the manner and method by which grants under the program shall be made;
- (e) prescribing the books and records to be kept by employers relating to employees in respect of whom grants under the program may be made;
- (f) prescribing the information and returns to be filed by employers in connection with the program;
- (g) prescribing the rate of interest for the purposes of section 9;
- (h) defining any word or expression used in this Act or the regulations that has not already been expressly defined in this Act;
- (i) prescribing any matter that is required or permitted by this Act to be prescribed by regulation;
- (j) prescribing forms and providing for their use and requiring any information given in a form to be verified by statutory declaration.

(2) A regulation made under subsection 1 may be made effective retroactively to a date not earlier than the 19th day of April, 1977. Regulation may be retroactive

11. Notwithstanding *The Summary Convictions Act*, proceedings to enforce any provision of this Act or the regulations may be instituted within two years after the time the subject-matter of the proceedings arose. Institution of proceedings R.S.O. 1970, c. 450

12. The moneys required for the purposes of this Act shall, until the 31st day of March, 1978, be paid out of the Consolidated Revenue Fund and thereafter shall be paid out of the moneys appropriated therefor by the Legislature. Moneys

13. This Act shall be deemed to have come into force on the 19th day of April, 1977. Commencement

14. The short title of this Act is *The Ontario Youth Employment Act, 1977*. Short title

An Act to provide
Employment Opportunities for Youth
in Ontario

1st Reading

June 27th, 1977

2nd Reading

3rd Reading

THE HON. W. D. McKEOUGH
Treasurer of Ontario and
Minister of Economics and
Intergovernmental Affairs

(Government Bill)

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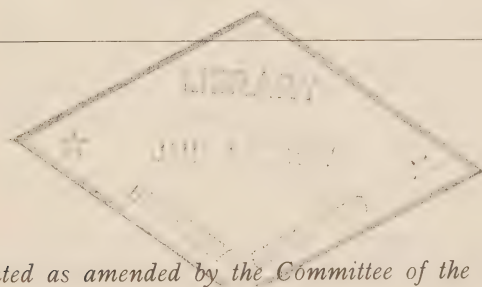
BILL 11

Government Bill

1ST SESSION, 31ST LEGISLATURE, ONTARIO
26 ELIZABETH II, 1977

**An Act to provide Employment Opportunities for
Youth in Ontario**

THE HON. W. D. McKEOUGH
Treasurer of Ontario and Minister of Economics and
Intergovernmental Affairs



(Reprinted as amended by the Committee of the Whole House)

EXPLANATORY NOTE

The Bill provides for the establishment of a Youth Employment Program that will encourage the farming and business communities to increase employment of youth in Ontario by creating youth summer job opportunities and that will provide young people with work experience and skills to better equip them for full-time participation in the labour market.

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Eligible employees are those who are,

- (a) resident in Ontario;
- (b) eligible to work in Ontario;
- (c) between the ages of fifteen and twenty-four years inclusive at the commencement of the Program; and
- (d) not related to the employer.

The Youth Employment Program established under the Bill will ensure that jobs created under the Program are in addition to those normally provided by the employer and will not result in the dismissal, lay-off or reduction in hours or period of work of any existing employees.

The Program will be subject to both ongoing and post-audit checks. The Bill contains provision for inspection to ensure that grants are properly made under the Program. Penalties are also provided for persons who obtain grants on the basis of false information.

BILL 11

1977

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of Act**

2. The purpose of this Act is to provide for the establishment of a youth employment program that will encourage the farming and business communities in Ontario to achieve increased employment of youth in Ontario by creating new summer job opportunities and that will provide young people with work experience and skills that better equip them for full-time participation in the labour market.

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**Interpre-
tation**

(2) For the purposes of clause *b* of subsection 1, "related person" means,

(i) any spouse, parent, son or daughter, brother or sister of the employee,

(ii) any relative of the employee or of his spouse, other than a relative referred to in subclause i, who has the same home as the employee, or

- (iii) any body corporate of which the employee and any of the persons referred to in subclause i or ii or the partner or employer of the employee, either alone or in combination beneficially owns, directly or indirectly, equity shares carrying more than 50 per cent of the voting rights attached to all equity shares of a body corporate for the time being outstanding.

 **5.—**(1) Every person who receives a grant of money under the youth employment program established under this Act shall, at such times and in such manner as may be prescribed, make a return to the Minister in such form as the Minister requires.  Returns

(2) Every person who fails to make a return as and when required by subsection 1 is guilty of an offence and on summary conviction is liable to a fine not exceeding \$500. Offence

6. The Minister, or any person designated by him in writing, may at all reasonable times enter into any premises or place where any business is carried on or any property is kept, or any thing is done in connection with any business or any books or records are or should be kept pursuant to the provisions of this Act or the regulations to ensure that the provisions of this Act and the regulations are being complied with. Inspection

7.—(1) Upon an inspection under section 6, the person inspecting, Powers of
inspector

- (a) is entitled to free access to all books of account, cash, documents, bank accounts, vouchers, correspondence and records of every description of the person being inspected; and
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Non-disclosure

(4) No person employed in the administration or enforcement of this Act shall disclose information obtained under section 6 or this section, except where the disclosure is necessary for the administration or enforcement of this Act or where the disclosure is required by a court for the purposes of an action, prosecution or proceeding.

Offence

8.—(1) Every person who makes or assists in making a statement in any document required by or for the purposes of this Act or the regulations that, at the time and in related circumstances under which it was made, is false or misleading in respect of any material fact or omits to state any material fact, the omission of which makes the statement false or misleading is guilty of an offence and on summary conviction is liable to a fine of not more than \$2,000, or if such person is a corporation, to a fine of not more than \$10,000.

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Recovery of grant made on basis of false application

9. Where any person obtains a grant or disbursement of funds under this Act or the regulations, on the basis of information that is false or misleading or an application that contains any false or misleading statement, the amount of such grant or disbursement together with interest thereon at the prescribed rate, shall be deemed to be a debt due to the Crown and may be recovered by an action in a court of competent jurisdiction.

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14. The short title of this Act is *The Ontario Youth Employment Act, 1977*. Short title

An Act to provide
Employment Opportunities for Youth
in Ontario

1st Reading

June 27th, 1977

2nd Reading

July 4th, 1977

3rd Reading

THE HON. W. D. McKEOUGH
Treasurer of Ontario and
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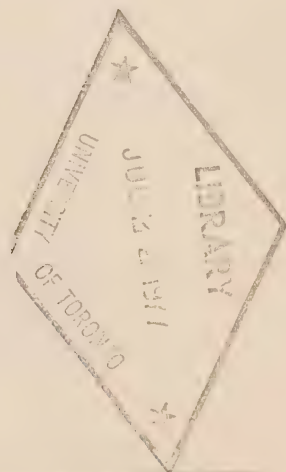
*(Reprinted as amended by the
Committee of the Whole House)*

BILL 11

1ST SESSION, 31ST LEGISLATURE, ONTARIO
26 ELIZABETH II, 1977

**An Act to provide Employment Opportunities for
Youth in Ontario**

THE HON. W. D. McKEOUGH
Treasurer of Ontario and Minister of Economics and
Intergovernmental Affairs



TORONTO

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BILL 11

1977

An Act to provide Employment Opportunities for Youth in Ontario

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. In this Act,

Interpre-
tation

- (a) "eligible employee" means a person who is resident and eligible to work in Ontario and who at the time of the commencement of the youth employment program has attained the age of fifteen years but has not attained the age of twenty-five years;
- (b) "eligible employer" means a person who has been actively engaged in business or farming in Ontario for at least one year immediately prior to the commencement of the youth employment program but does not include a municipality or local board thereof, the Government of Canada or the government of any province or any agency, board or commission thereof, or any person prescribed not to be eligible as an employer;
- (c) "employee" means an employee within the meaning of *The Employment Standards Act, 1974*; 1974, c. 112
- (d) "employer" means an employer within the meaning of *The Employment Standards Act, 1974*;
- (e) "farming" includes tillage of the soil, the breeding, raising or grazing of live stock of all kinds, the raising of poultry and the production of poultry products, fur-farming, dairy farming, fruit growing, the growing of food for human consumption or for the feeding of live stock and the keeping of bees;
- (f) "local board" means a local board as defined in *The Municipal Affairs Act*; R.S.O. 1970,
c. 118

(g) "Minister" means the Treasurer of Ontario and Minister of Economics and Intergovernmental Affairs or such other member of the Executive Council as is designated by the Lieutenant Governor in Council to administer this Act;

(h) "municipality" means a city, town, village, township or improvement district and includes a metropolitan, regional or district municipality;

(i) "prescribed" means prescribed by the regulations;

(j) "regulations" means the regulations made under this Act.

**Purpose
of Act**

2. The purpose of this Act is to provide for the establishment of a youth employment program that will encourage the farming and business communities in Ontario to achieve increased employment of youth in Ontario by creating new summer job opportunities and that will provide young people with work experience and skills that better equip them for full-time participation in the labour market.

**Minister
may make
grants**

3. The Minister may make grants in the prescribed amount to eligible employers who hire eligible employees in accordance with the terms and conditions of the youth employment program established under this Act.

**Effect of
program**

4.—(1) The youth employment program established under this Act shall ensure,

(a) that employment created under the program is in addition to that normally provided by an employer and that it does not result in the dismissal, lay-off or reduction in regular hours or period of work of any existing employees of an employer; and

(b) that employment is not provided under the program to an employee where the employer is a related person.

**Interpre-
tation**

(2) For the purposes of clause *b* of subsection 1, "related person" means,

(i) any spouse, parent, son or daughter, brother or sister of the employee,

(ii) any relative of the employee or of his spouse, other than a relative referred to in subclause i, who has the same home as the employee, or

- (iii) any body corporate of which the employee and any of the persons referred to in subclause i or ii or the partner or employer of the employee, either alone or in combination beneficially owns, directly or indirectly, equity shares carrying more than 50 per cent of the voting rights attached to all equity shares of a body corporate for the time being outstanding.

5.—(1) Every person who receives a grant of money under the youth employment program established under this Act shall, at such times and in such manner as may be prescribed, make a return to the Minister in such form as the Minister requires. Returns

(2) Every person who fails to make a return as and when required by subsection 1 is guilty of an offence and on summary conviction is liable to a fine not exceeding \$500. Offence

6. The Minister, or any person designated by him in writing, may at all reasonable times enter into any premises or place where any business is carried on or any property is kept, or any thing is done in connection with any business or any books or records are or should be kept pursuant to the provisions of this Act or the regulations to ensure that the provisions of this Act and the regulations are being complied with. Inspection

7.—(1) Upon an inspection under section 6, the person inspecting, Powers of inspector

- (a) is entitled to free access to all books of account, cash, documents, bank accounts, vouchers, correspondence and records of every description of the person being inspected; and
- (b) may, upon giving a receipt therefor, remove any material referred to in clause *a* that relates to the purpose of the inspection for the purpose of making a copy thereof, providing that such copying is carried out with reasonable dispatch and the material in question is promptly thereafter returned to the person being inspected,

and no person shall obstruct the person inspecting or withhold or destroy, conceal or refuse to furnish any information or other thing required by the person inspecting for the purposes of the inspection.

(2) Any copy made as provided in subsection 1 and purporting to be certified by the inspector is admissible in evidence Copies

in any action, proceeding or prosecution as being of actual proof of the original.

Offence

(3) Every person who contravenes subsection 1 is guilty of an offence and on summary conviction is liable to a fine of not more than \$2,000, or if such person is a corporation, to a fine of not more than \$10,000.

Non-disclosure

(4) No person employed in the administration or enforcement of this Act shall disclose information obtained under section 6 or this section, except where the disclosure is necessary for the administration or enforcement of this Act or where the disclosure is required by a court for the purposes of an action, prosecution or proceeding.

Offence

8.—(1) Every person who makes or assists in making a statement in any document required by or for the purposes of this Act or the regulations that, at the time and in related circumstances under which it was made, is false or misleading in respect of any material fact or omits to state any material fact, the omission of which makes the statement false or misleading is guilty of an offence and on summary conviction is liable to a fine of not more than \$2,000, or if such person is a corporation, to a fine of not more than \$10,000.

Saving

(2) No person is guilty of an offence under subsection 1 if he did not know that the statement was false or misleading, and in the exercise of reasonable diligence could not have known that the statement was false or misleading.

Recovery of grant made on basis of false application

9. Where any person obtains a grant or disbursement of funds under this Act or the regulations, on the basis of information that is false or misleading or an application that contains any false or misleading statement, the amount of such grant or disbursement together with interest thereon at the prescribed rate, shall be deemed to be a debt due to the Crown and may be recovered by an action in a court of competent jurisdiction.

Regulations

10.—(1) The Lieutenant Governor in Council may make regulations establishing, amending or revoking a youth employment program and fixing the time of commencement and duration of the program, and, without restricting the generality of the foregoing,

- (a) prescribing the amounts of grants that may be made under the program to employers;
- (b) prescribing the terms and conditions upon which grants under the program may be made;

- (c) prescribing the manner in which eligibility for grants shall be determined;
- (d) prescribing the manner and method by which grants under the program shall be made;
- (e) prescribing the books and records to be kept by employers relating to employees in respect of whom grants under the program may be made;
- (f) prescribing the information and returns to be filed by employers in connection with the program;
- (g) prescribing the rate of interest for the purposes of section 9;
- (h) defining any word or expression used in this Act or the regulations that has not already been expressly defined in this Act;
- (i) prescribing any matter that is required or permitted by this Act to be prescribed by regulation;
- (j) prescribing forms and providing for their use and requiring any information given in a form to be verified by statutory declaration.

(2) A regulation made under subsection 1 may be made effective retroactively to a date not earlier than the 19th day of April, 1977. Regulation may be retroactive

11. Notwithstanding *The Summary Convictions Act*, proceedings to enforce any provision of this Act or the regulations may be instituted within two years after the time the subject-matter of the proceedings arose. Institution of proceedings R.S.O. 1970, c. 450

12. The moneys required for the purposes of this Act shall, until the 31st day of March, 1978, be paid out of the Consolidated Revenue Fund and thereafter shall be paid out of the moneys appropriated therefor by the Legislature. Moneys

13. This Act shall be deemed to have come into force on the 19th day of April, 1977. Commencement

14. The short title of this Act is *The Ontario Youth Employment Act, 1977*. Short title

An Act to provide
Employment Opportunities for Youth
in Ontario

1st Reading

June 27th, 1977

2nd Reading

July 4th, 1977

3rd Reading

July 5th, 1977

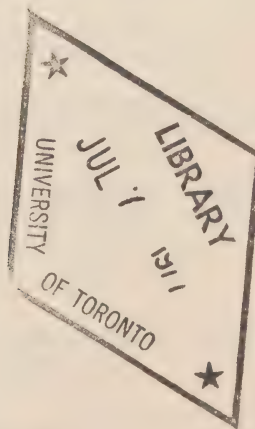
THE HON. W. D. McKEOUGH
Treasurer of Ontario and
Minister of Economics and
Intergovernmental Affairs

1ST SESSION, 31ST LEGISLATURE, ONTARIO
26 ELIZABETH II, 1977

Government
Publications

An Act to amend The Retail Sales Tax Act

THE HON. M. SCRIVENER
Minister of Revenue



TORONTO

PRINTED BY J. C. THATCHER, QUEEN'S PRINTER FOR ONTARIO

EXPLANATORY NOTES

In accordance with the Treasurer's Budget, this Bill,

- (a) extends the present exemption for thermal insulation materials to many other classes of energy conservation equipment;
- (b) includes in the fair value of a canned soft drink the amount of the tax to be imposed by *The Environmental Tax Act, 1977* so that retail sales tax will apply to the retail price of the canned soft drink plus the amount of the environmental tax;
- (c) exempts from tax the price of admission to a place of amusement where the price of admission is \$3 or less. Tax formerly applied when the price was more than \$.75 and will now apply only where the price exceeds \$3;
- (d) provides for exempting from tax disposable tangible personal property that is used in the provision of transient accommodation by the operators of hotels, motels, etc.;
- (e) raises from \$5 to \$6 the exemption for the price of a prepared meal;
- (f) increases the amount of compensation payable to vendors who collect retail sales tax for the Crown.

In addition, the Bill contains other amendments to clarify the provisions of the Act and to deal with taxes collected in trust for the Crown.

SECTION 1.—Subsection 1. The provision added by the amendment will include the amount of tax under *The Environmental Tax Act, 1977* as part of the purchase price of a canned soft drink (which is tangible personal property under *The Retail Sales Tax Act*) on which retail sales tax is levied.

Subsection 2. The paragraph amended defines "place of amusement". The definition is amended to make it clear that a place of amusement includes an amusement park and other places of entertainment.

SECTION 2.—Subsection 1. The amendment raises the exemption for prepared meals from \$5.00 to \$6.00.

Subsection 2. The amendment provides that tax on the price of admission is payable only when the price exceeds \$3.00. The subsection that is replaced by the amendment now reads as follows:

- (4) *Every purchaser of admission to a place of amusement shall pay to Her Majesty in right of Ontario a tax on the price of admission as follows:*

<i>Price of Admission</i>	<i>Tax</i>
<i>More than 75 cents and not more than 84 cents</i>	<i>— 6 cents</i>
<i>More than 84 cents and not more than 90 cents</i>	<i>— 7 cents</i>
<i>More than 90 cents and not more than 92 cents</i>	<i>— 8 cents</i>

and where the price of admission is more than 92 cents, a tax at the rate of 10 per cent, calculated upon the price of admission.

An Act to amend The Retail Sales Tax Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

- 1.—(1) Paragraph 4 of section 1 of *The Retail Sales Tax Act*, ^{s. 1, par. 4, amended} being chapter 415 of the Revised Statutes of Ontario, 1970, as amended by the Statutes of Ontario, 1976, chapter 23, section 1, is further amended by adding thereto the following clause:

(ba) the amount of the tax payable under *The Environ-* ^{1977, c. ...}
mental Tax Act, 1977.
- (2) Paragraph 7 of the said section 1 is amended by inserting ^{s. 1, par. 7, amended} after “means” in the first line “an amusement park or” and by inserting after “performance” in the sixth line “or entertainment”.
- 2.—(1) Paragraph 2 of subsection 2 of section 2 of the said Act, ^{s. 2 (2), par. 2, re-enacted} as re-enacted by the Statutes of Ontario, 1976, chapter 23, section 2, is repealed and the following substituted therefor:

2. prepared meals sold at a price of over \$6.00.
- (2) Subsection 4 of the said section 2 is repealed and the ^{s. 2 (4), re-enacted} following substituted therefor:

(4) Every purchaser of admission to a place or places of ^{Tax on admission to a place of amusement} amusement shall pay to Her Majesty in right of Ontario a tax computed at the rate of 10 per cent of the price of admission where the price of admission exceeds \$3.00.
- (3) Subsection 6 of the said section 2 is repealed and the ^{s. 2 (6), re-enacted} following substituted therefor:

(6) Where the Minister considers it necessary or advisable, ^{Deter- mination of fair value} he may determine the amount of any price of admission, or

the fair value of any tangible personal property or taxable service, for the purposes of taxation under this Act, and thereupon the price of admission, or fair value of such tangible personal property or taxable service, for such purpose shall be as so determined by him unless, in proceedings instituted by an appeal under section 20, it is established that the determination is unreasonable.

s. 4 (1),
amended

- 3.—(1) Subsection 1 of section 4 of the said Act, as amended by the Statutes of Ontario, 1973, chapter 23, section 3, is further amended by striking out “as defined in *The Bulk Sales Act*” in the second line and inserting in lieu thereof “to which *The Bulk Sales Act* applies”.

s. 4 (2),
amended

- (2) Subsection 2 of the said section 4 is amended by striking out “as defined in *The Bulk Sales Act*” in the first and second lines and inserting in lieu thereof “to which *The Bulk Sales Act* applies”.

s. 5 (1), par. 2,
amended

- 4.—(1) Paragraph 2 of subsection 1 of section 5 of the said Act, as re-enacted by the Statutes of Ontario, 1973, chapter 23, section 4 and amended by 1976, chapter 23, section 3, is further amended by striking out “\$5.00” in the second line and in the fourth line, as inserted by the amendment of 1976, and inserting in lieu thereof in each instance “\$6.00”.

s. 5 (1), par. 2a,
amended

- (2) Paragraph 2a of subsection 1 of the said section 5, as enacted by the Statutes of Ontario, 1973, chapter 23, section 4 and amended by 1976, chapter 23, section 3, is further amended by striking out “\$5.00” in the sixth line, as inserted by the amendment of 1976, and inserting in lieu thereof “\$6.00”.

s. 5 (1), par. 24b,
re-enacted

- (3) Paragraph 24b of subsection 1 of the said section 5, as enacted by the Statutes of Ontario, 1976, chapter 23, section 3, is repealed and the following substituted therefor:

24b. materials or equipment that are used for the conservation of energy and that are,

- (a) thermal insulation materials, as defined by the Minister, that are sold primarily to insulate buildings and that are not primarily for a use prescribed by the Minister to be excluded from the exemption conferred by this paragraph,
- (b) heat pumps for use principally to provide heat in the heating system of a building,

Subsection 3. The subsection is re-enacted to make it clear that the Minister's authority to determine fair value applies to the price of admission and to the value of taxable services. The provision being replaced by the amendment referred only to property, and created some doubt as to how far the subsection extended. The replaced subsection now reads as follows:

- (6) *Where the Minister deems it necessary or advisable, he may determine the fair value of any such property for the purposes of taxation under this Act, and thereupon the fair value of such property for such purpose shall be as so determined by him.*

SECTION 3. The amendments clarify that the certificate required by section 4 of the Act is necessary only when the sale in bulk is one to which *The Bulk Sales Act* applies. Under section 2 of *The Bulk Sales Act*, certain classes of sales are exempted from the application of this Act, although they are defined to be sales in bulk. These exempted sales will no longer require a certificate under section 4 of *The Retail Sales Tax Act*.

SECTION 4.—Subsections 1 and 2. These amendments are consequential on the increase from \$5.00 to \$6.00 in the exemption for prepared meals.

Subsection 3. This amendment adds two paragraphs, 24b and 24c, to the list of exemptions contained in subsection 1 of section 5 of the Act.

The new paragraph 24b provides for the exemption of the classes of energy conservation equipment and material that are proposed by the Treasurer's Budget to be exempt from retail sales tax. Paragraph 24b, prior to this amendment, exempted only thermal insulation materials for existing buildings. The amendment retains this exemption, but extends it to thermal insulation materials in all buildings, and includes many other energy conserving devices. The former paragraph 24b read:

24b. thermal insulation materials, as defined by the Minister, that are purchased exclusively to insulate a building the construction of which has been completed and that is occupied permanently or seasonally for residential purposes if, with respect to such purchase, the person selling such materials is provided with either,

- (a) the completed exemption certificate for thermal insulation materials in the form prescribed by the Minister, and signed by the purchaser; or*
- (b) where the person acquiring such materials holds a valid permit under section 3, a single purchase exemption certificate or a blanket purchase exemption certificate issued in accordance with the regulations,*

but the exemption conferred by this paragraph does not apply to the purchase of such materials used to insulate any commercial or industrial building, any hotel, motel or lodge or similar establishment, or any new residential premises in the process of construction.

The new paragraph 24c provides for the exemption of tangible personal property to be consumed in the provision of transient accommodation. Transient accommodation includes the rental of hotel rooms, motel rooms, etc., and, in general, lodging for periods of less than a month. As indicated in the Treasurer's Budget, the items to be exempted under this paragraph are items such as facial tissue, matches, soap and similar items provided by hotels and motels for the temporary convenience of those to whom accommodation is rented. The list of items exempt under this paragraph will be prescribed by regulation.

SECTION 5. This section increases the amount of compensation payable to vendors who are responsible to collect the retail sales tax. Compensation is increased from 3 per cent a year to 4 per cent a year with a maximum of \$700 in any year. The maximum compensation was formerly \$500 in any year. In addition, the minimum compensation for each return filed by a vendor is increased from \$2 to \$3 or the tax covered by the return if the return shows the tax to be less than \$3.

- (c) heat recovery units or devices for extracting heat from exhaust air or waste water to recover energy,
- (d) solar cells to be used to produce directly from sunlight electricity to charge batteries,
- (e) solar furnaces, panels and tubes specially designed to collect and convert solar energy into heat for use in a solar heating system,
- (f) windmills and wind-powered generators that produce mechanical or electrical energy, and pumps and generators specially designed for use directly with such devices,
- (g) timer-controlled thermostats for heating systems in buildings and automatic timer controls for electrical equipment,
- (h) wood-burning stoves and wood-burning furnaces, or
- (i) wind deflectors for trucks;

24c. tangible personal property that is prescribed by the Minister for the purpose of this paragraph and that is purchased by a vendor to be consumed by him in the provision of transient accommodation.

5. Clauses *a* and *b* of subsection 1 of section 11 of the said Act, <sup>s. 11 (1) (a, b),
re-enacted</sup> as enacted by the Statutes of Ontario, 1975, chapter 9, section 5, are repealed and the following substituted therefor:

(a) \$700; or

(b) the aggregate of,

- (i) 4 per cent of the tax collected by the vendor in such period and shown in a return that is made in accordance with this Act and the regulations and in which the tax shown to have been so collected is \$75 or more,
- (ii) \$3 for each return with respect to tax collected by the vendor in such period that is made in accordance with this Act and the regulations and in which the tax shown to have been so collected exceeds \$3 and is less than \$75, and

- (iii) the tax collected by the vendor in such period and shown on a return that is made in accordance with this Act and the regulations and in which the tax shown to have been so collected does not exceed \$3,

s. 18,
amended

6. Section 18 of the said Act, as amended by the Statutes of Ontario, 1975, chapter 9, section 7, is further amended by adding thereto the following subsections:

Trust money
in liquidation
proceedings

(2) Where, by the order of a court or otherwise, any property of a vendor is lawfully taken from his control or possession for the purposes of liquidation in receivership proceedings, winding-up proceedings or for the purpose of a distribution to creditors pursuant to a general assignment made for the benefit of creditors, an amount equal to the amount of tax that was collected by the vendor and that by subsection 1 is deemed to be held in trust for Her Majesty in right of Ontario, shall, to the extent of the amount of tax that was collected by the vendor in the year immediately preceding the date when the vendor lost control or possession of his property and was not remitted to the Treasurer as required by subsection 1, be deemed to be separate from, and to form no part of, the estate or property in liquidation, whether or not that amount has in fact been kept separate and apart from the vendor's own property and in trust in accordance with subsection 1.

Minister's
certificate

R.S.C. 1970,
c. B-3

(3) Every person who, as assignee, liquidator, administrator, receiver, receiver-manager, trustee or other like person, other than a trustee appointed under the *Bankruptcy Act* (Canada), takes control or possession of the property of any vendor holding a valid and subsisting permit issued under section 3 shall, before distributing such property or the proceeds from the realization thereof under his control, obtain from the Minister a certificate that the tax collected by the vendor in the year immediately preceding the date when the vendor lost control or possession of his property and not remitted by the vendor as required by subsection 1 has been paid or that security therefor acceptable to the Minister has been given, and any assignee, liquidator, administrator, receiver, receiver-manager, trustee or other like person, other than a trustee appointed under the *Bankruptcy Act* (Canada), who distributes any such property or the proceeds of the realization thereof without having obtained the certificate required by this subsection is personally liable to Her Majesty in right of Ontario for an amount equal to the amount of tax that was collected by the vendor in the

SECTION 6. The amendment provides that, where a vendor who has collected tax that is trust money for the Crown goes into liquidation or receivership, the trust imposed by subsection 1 of section 18 of the Act for collected tax applies to an amount equal to the tax collected and not remitted in the year preceding the liquidation or receivership. A receiver or liquidator is required to obtain a certificate that tax collected in trust during the year is paid, and will be liable to the Crown for any loss sustained if the certificate is not obtained. The requirement to obtain the certificate applies only where the vendor has been issued a permit under section 3 of the Act, and there will be no liability if the tax collected in trust has been paid to the Crown.

SECTION 7. The amendment adds a reference to assessments made under section 15a of the Act so that overpayments of tax finally determined to be payable under an assessment pursuant to section 15a will be returned to the taxpayer with interest. Prior to the amendment, section 30 (2) of the Act had omitted a reference to assessments under section 15a, a section which was added to the Act in 1976, and this omission is now to be corrected and will be made retrospective to the date when section 15a of the Act came into force (April 7, 1976).

SECTION 8. The amendment adds to the section allowing garnishment for unpaid taxes provisions that deal with the garnishment of wages and that allow an application to a judge when a garnishee has failed to honour the garnishment. The amendment with respect to the garnishment of wages limits such garnishments to the provisions of *The Wages Act*.

year immediately preceding the date when the vendor lost control or possession of his property and not remitted to the Treasurer as required by subsection 1.

7. Subsection 2 of section 30 of the said Act is amended by ^{s. 30 (2), amended} inserting after "15" in the fourth line "or 15a".

8. Section 31 of the said Act is amended by adding thereto the ^{s. 31, amended} following subsections:

(6) Subject to *The Wages Act*, where the Minister has ^{Garnishment of wages R.S.O. 1970, c. 486} under this section required an employer to pay to the Treasurer on account of an employee's liability under this Act moneys otherwise payable by the employer to the employee as remuneration, the requirement is applicable to all future payments by the employer to the employee in respect of remuneration until the liability under this Act is satisfied and operates to require payments to the Treasurer out of each payment of remuneration of such amount as may be stipulated by the Minister in the registered letter or letter served personally.

(7) Where any person, without reasonable excuse, has ^{Failure to remit} failed to remit to the Treasurer the moneys as required under this section, the Minister may apply before a judge of the Supreme Court for an order directing such person to remit the moneys which he has failed to remit.

- 9.—(1) This Act, except section 1, subsections 1 and 2 of section 2, and sections 4, 5 and 7, comes into force on ^{Commencement} the day it receives Royal Assent.

(2) Section 7 shall be deemed to have come into force on the ^{Idem} 7th day of April, 1976.

(3) Section 5 shall be deemed to have come into force on ^{Idem} the 1st day of April, 1977.

(4) Subsection 2 of section 1, subsections 1 and 2 of section 2 ^{Idem} and section 4 shall be deemed to have come into force on the 20th day of April, 1977.

(5) Subsection 1 of section 1 comes into force on the 1st day of ^{Idem} August, 1977.

10. The short title of this Act is *The Retail Sales Tax Amendment* ^{Short title} Act, 1977.

An Act to amend
The Retail Sales Tax Act

1st Reading

June 27th, 1977

2nd Reading

3rd Reading

THE HON. M. SCRIVENER
Minister of Revenue

(Government Bill)

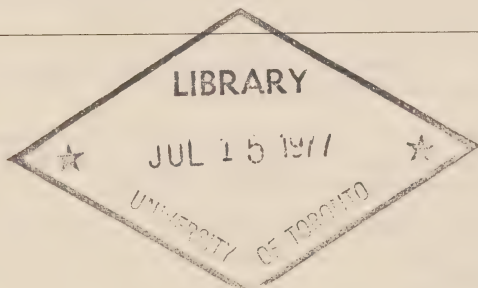
BILL 12

Government Bill

1ST SESSION, 31ST LEGISLATURE, ONTARIO
26 ELIZABETH II, 1977

An Act to amend The Retail Sales Tax Act

THE HON. MARGARET SCRIVENER
Minister of Revenue



(Reprinted as amended by the Committee of the Whole House)

TORONTO

PRINTED BY J. C. THATCHER, QUEEN'S PRINTER FOR ONTARIO

EXPLANATORY NOTES

In accordance with the Treasurer's Budget, this Bill,

- (a) extends the present exemption for thermal insulation materials to many other classes of energy conservation equipment ;
- (b) exempts from tax the price of admission to a place of amusement where the price of admission is \$3 or less. Tax formerly applied when the price was more than \$.75 and will now apply only where the price exceeds \$3 ;
- (c) provides for exempting from tax disposable tangible personal property that is used in the provision of transient accommodation by the operators of hotels, motels, etc. ;
- (d) raises from \$5 to \$6 the exemption for the price of a prepared meal ;
- (e) increases the amount of compensation payable to vendors who collect retail sales tax for the Crown.

In addition, the Bill contains other amendments to clarify the provisions of the Act and to deal with taxes collected in trust for the Crown.

SECTION 1. The paragraph amended defines "place of amusement". The definition is amended to make it clear that a place of amusement includes an amusement park and other places of entertainment.

SECTION 2.—Subsection 1. The amendment raises the exemption for prepared meals from \$5.00 to \$6.00.

Subsection 2. The amendment provides that tax on the price of admission is payable only when the price exceeds \$3.00. The subsection that is replaced by the amendment now reads as follows :

- (4) *Every purchaser of admission to a place of amusement shall pay to Her Majesty in right of Ontario a tax on the price of admission as follows :*

<i>Price of Admission</i>	<i>Tax</i>
<i>More than 75 cents and not more than 84 cents</i>	<i>— 6 cents</i>
<i>More than 84 cents and not more than 90 cents</i>	<i>— 7 cents</i>
<i>More than 90 cents and not more than 92 cents</i>	<i>— 8 cents</i>

and where the price of admission is more than 92 cents, a tax at the rate of 10 per cent, calculated upon the price of admission.

BILL 12

1977

An Act to amend The Retail Sales Tax Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Paragraph 7 of section 1 of *The Retail Sales Tax Act*, being chapter 415 of the Revised Statutes of Ontario, 1970, is amended by inserting after "means" in the first line "an amusement park or" and by inserting after "performance" in the sixth line "or entertainment".
- 2.—(1) Paragraph 2 of subsection 2 of section 2 of the said Act, as re-enacted by the Statutes of Ontario, 1976, chapter 23, section 2, is repealed and the following substituted therefor:
 2. prepared meals sold at a price of over \$6.00.
- (2) Subsection 4 of the said section 2 is repealed and the following substituted therefor:
 - (4) Every purchaser of admission to a place or places of amusement shall pay to Her Majesty in right of Ontario a tax computed at the rate of 10 per cent of the price of admission where the price of admission exceeds \$3.00.
- (3) Subsection 6 of the said section 2 is repealed and the following substituted therefor:
 - (6) Where the Minister considers it necessary or advisable, he may determine the amount of any price of admission, or the fair value of any tangible personal property or taxable service, for the purposes of taxation under this Act, and thereupon the price of admission, or fair value of such tangible personal property or taxable service, for such purpose shall be as so determined by him unless, in proceedings instituted by an appeal under section 20, it is established that the determination is unreasonable.

s. 4 (1),
amended

- 3.—(1) Subsection 1 of section 4 of the said Act, as amended by the Statutes of Ontario, 1973, chapter 23, section 3, is further amended by striking out “as defined in *The Bulk Sales Act*” in the second line and inserting in lieu thereof “to which *The Bulk Sales Act* applies”.

s. 4 (2),
amended

- (2) Subsection 2 of the said section 4 is amended by striking out “as defined in *The Bulk Sales Act*” in the first and second lines and inserting in lieu thereof “to which *The Bulk Sales Act* applies”.

s. 5 (1), par. 2,
amended

- 4.—(1) Paragraph 2 of subsection 1 of section 5 of the said Act, as re-enacted by the Statutes of Ontario, 1973, chapter 23, section 4 and amended by 1976, chapter 23, section 3, is further amended by striking out “\$5.00” in the second line and in the fourth line, as inserted by the amendment of 1976, and inserting in lieu thereof in each instance “\$6.00”.

s. 5 (1), par. 2a,
amended

- (2) Paragraph 2a of subsection 1 of the said section 5, as enacted by the Statutes of Ontario, 1973, chapter 23, section 4 and amended by 1976, chapter 23, section 3, is further amended by striking out “\$5.00” in the sixth line, as inserted by the amendment of 1976, and inserting in lieu thereof “\$6.00”.

s. 5 (1), par. 24b,
re-enacted

- (3) Paragraph 24b of subsection 1 of the said section 5, as enacted by the Statutes of Ontario, 1976, chapter 23, section 3, is repealed and the following substituted therefor:

24b. materials or equipment that are used for the conservation of energy and that are,

- (a) thermal insulation materials, as defined by the Minister, that are sold primarily to insulate buildings and that are not primarily for a use prescribed by the Minister to be excluded from the exemption conferred by this paragraph,
- (b) heat pumps for use principally to provide heat in the heating system of a building,
- (c) heat recovery units or devices for extracting heat from exhaust air or waste water to recover energy,
- (d) solar cells to be used to produce directly from sunlight electricity to charge batteries,

Subsection 3. The subsection is re-enacted to make it clear that the Minister's authority to determine fair value applies to the price of admission and to the value of taxable services. The provision being replaced by the amendment referred only to property, and created some doubt as to how far the subsection extended. The replaced subsection now reads as follows:

- (6) *Where the Minister deems it necessary or advisable, he may determine the fair value of any such property for the purposes of taxation under this Act, and thereupon the fair value of such property for such purpose shall be as so determined by him.*

SECTION 3. The amendments clarify that the certificate required by section 4 of the Act is necessary only when the sale in bulk is one to which *The Bulk Sales Act* applies. Under section 2 of *The Bulk Sales Act*, certain classes of sales are exempted from the application of this Act, although they are defined to be sales in bulk. These exempted sales will no longer require a certificate under section 4 of *The Retail Sales Tax Act*.

SECTION 4.—Subsections 1 and 2. These amendments are consequential on the increase from \$5.00 to \$6.00 in the exemption for prepared meals.

Subsection 3. This amendment adds two paragraphs, 24b and 24c, to the list of exemptions contained in subsection 1 of section 5 of the Act.

The new paragraph 24b provides for the exemption of the classes of energy conservation equipment and material that are proposed by the Treasurer's Budget to be exempt from retail sales tax. Paragraph 24b, prior to this amendment, exempted only thermal insulation materials for existing buildings. The amendment retains this exemption, but extends it to thermal insulation materials in all buildings, and includes many other energy conserving devices. The former paragraph 24b read:

24b. thermal insulation materials, as defined by the Minister, that are purchased exclusively to insulate a building the construction of which has been completed and that is occupied permanently or seasonally for residential purposes if, with respect to such purchase, the person selling such materials is provided with either,

(a) the completed exemption certificate for thermal insulation materials in the form prescribed by the Minister, and signed by the purchaser; or

(b) where the person acquiring such materials holds a valid permit under section 3, a single purchase exemption certificate or a blanket purchase exemption certificate issued in accordance with the regulations,

but the exemption conferred by this paragraph does not apply to the purchase of such materials used to insulate any commercial or industrial building, any hotel, motel or lodge or similar establishment, or any new residential premises in the process of construction.

The new paragraph 24c provides for the exemption of tangible personal property to be consumed in the provision of transient accommodation. Transient accommodation includes the rental of hotel rooms, motel rooms, etc., and, in general, lodging for periods of less than a month. As indicated in the Treasurer's Budget, the items to be exempted under this paragraph are items such as facial tissue, matches, soap and similar items provided by hotels and motels for the temporary convenience of those to whom accommodation is rented. The list of items exempt under this paragraph will be prescribed by regulation.

SECTION 5. This section increases the amount of compensation payable to vendors who are responsible to collect the retail sales tax. Compensation is increased from 3 per cent a year to 4 per cent a year with a maximum of \$700 in any year. The maximum compensation was formerly \$500 in any year. In addition, the minimum compensation for each return filed by a vendor is increased from \$2 to \$3 or the tax covered by the return if the return shows the tax to be less than \$3.

- (e) solar furnaces, panels and tubes specially designed to collect and convert solar energy into heat for use in a solar heating system,
- (f) windmills and wind-powered generators that produce mechanical or electrical energy, and pumps and generators specially designed for use directly with such devices,
- (g) timer-controlled thermostats for heating systems in buildings and automatic timer controls for electrical equipment,
- (h) wood-burning stoves and wood-burning furnaces, or
- (i) wind deflectors for trucks;

24c. tangible personal property that is prescribed by the Minister for the purpose of this paragraph and that is purchased by a vendor to be consumed by him in the provision of transient accommodation.

5. Clauses *a* and *b* of subsection 1 of section 11 of the said Act, ^{s. 11 (1) (a, b), re-enacted} as enacted by the Statutes of Ontario, 1975, chapter 9, section 5, are repealed and the following substituted therefor:

(a) \$700; or

(b) the aggregate of,

- (i) 4 per cent of the tax collected by the vendor in such period and shown in a return that is made in accordance with this Act and the regulations and in which the tax shown to have been so collected is \$75 or more,
- (ii) \$3 for each return with respect to tax collected by the vendor in such period that is made in accordance with this Act and the regulations and in which the tax shown to have been so collected exceeds \$3 and is less than \$75, and
- (iii) the tax collected by the vendor in such period and shown on a return that is made in accordance with this Act and the regulations and in which the tax shown to have been so collected does not exceed \$3,

s. 18,
amended

6. Section 18 of the said Act, as amended by the Statutes of Ontario, 1975, chapter 9, section 7, is further amended by adding thereto the following subsections:

Trust money
in liquidation
proceedings

(2) Where, by the order of a court or otherwise, any property of a vendor is lawfully taken from his control or possession for the purposes of liquidation in receivership proceedings, winding-up proceedings or for the purpose of a distribution to creditors pursuant to a general assignment made for the benefit of creditors, an amount equal to the amount of tax that was collected by the vendor and that by subsection 1 is deemed to be held in trust for Her Majesty in right of Ontario, shall, to the extent of the amount of tax that was collected by the vendor in the year immediately preceding the date when the vendor lost control or possession of his property and was not remitted to the Treasurer as required by subsection 1, be deemed to be separate from, and to form no part of, the estate or property in liquidation, whether or not that amount has in fact been kept separate and apart from the vendor's own property and in trust in accordance with subsection 1.

Minister's
certificate

R.S.C. 1970,
c. B-3

(3) Every person who, as assignee, liquidator, administrator, receiver, receiver-manager, trustee or other like person, other than a trustee appointed under the *Bankruptcy Act* (Canada), takes control or possession of the property of any vendor holding a valid and subsisting permit issued under section 3 shall, before distributing such property or the proceeds from the realization thereof under his control, obtain from the Minister a certificate that the tax collected by the vendor in the year immediately preceding the date when the vendor lost control or possession of his property and not remitted by the vendor as required by subsection 1 has been paid or that security therefor acceptable to the Minister has been given, and any assignee, liquidator, administrator, receiver, receiver-manager, trustee or other like person, other than a trustee appointed under the *Bankruptcy Act* (Canada), who distributes any such property or the proceeds of the realization thereof without having obtained the certificate required by this subsection is personally liable to Her Majesty in right of Ontario for an amount equal to the amount of tax that was collected by the vendor in the year immediately preceding the date when the vendor lost control or possession of his property and not remitted to the Treasurer as required by subsection 1.

s. 30 (2),
amended

7. Subsection 2 of section 30 of the said Act is amended by inserting after "15" in the fourth line "or 15a".

s. 31,
amended

8. Section 31 of the said Act is amended by adding thereto the following subsections:

SECTION 6. The amendment provides that, where a vendor who has collected tax that is trust money for the Crown goes into liquidation or receivership, the trust imposed by subsection 1 of section 18 of the Act for collected tax applies to an amount equal to the tax collected and not remitted in the year preceding the liquidation or receivership. A receiver or liquidator is required to obtain a certificate that tax collected in trust during the year is paid, and will be liable to the Crown for any loss sustained if the certificate is not obtained. The requirement to obtain the certificate applies only where the vendor has been issued a permit under section 3 of the Act, and there will be no liability if the tax collected in trust has been paid to the Crown.

SECTION 7. The amendment adds a reference to assessments made under section 15*a* of the Act so that overpayments of tax finally determined to be payable under an assessment pursuant to section 15*a* will be returned to the taxpayer with interest. Prior to the amendment, section 30 (2) of the Act had omitted a reference to assessments under section 15*a*, a section which was added to the Act in 1976, and this omission is now to be corrected and will be made retrospective to the date when section 15*a* of the Act came into force (April 7, 1976).

SECTION 8. The amendment adds to the section allowing garnishment for unpaid taxes provisions that deal with the garnishment of wages and that allow an application to a judge when a garnishee has failed to honour the garnishment. The amendment with respect to the garnishment of wages limits such garnishments to the provisions of *The Wages Act*.

(6) Subject to *The Wages Act*, where the Minister has under this section required an employer to pay to the Treasurer on account of an employee's liability under this Act moneys otherwise payable by the employer to the employee as remuneration, the requirement is applicable to all future payments by the employer to the employee in respect of remuneration until the liability under this Act is satisfied and operates to require payments to the Treasurer out of each payment of remuneration of such amount as may be stipulated by the Minister in the registered letter or letter served personally.

Garnishment
of wages
R.S.O. 1970,
c. 486

(7) Where any person, without reasonable excuse, has failed to remit to the Treasurer the moneys as required under this section, the Minister may apply before a judge of the Supreme Court for an order directing such person to remit the moneys which he has failed to remit.

Failure
to remit

9.—(1) This Act, except section 1, subsections 1 and 2 of section 2, and sections 4, 5 and 7, comes into force on the day it receives Royal Assent.

Commence-
ment

(2) Section 7 shall be deemed to have come into force on the 7th day of April, 1976.

Idem

(3) Section 5 shall be deemed to have come into force on the 1st day of April, 1977.

Idem

(4) Section 1, subsections 1 and 2 of section 2 and section 4 shall be deemed to have come into force on the 20th day of April, 1977.

Idem

10. The short title of this Act is *The Retail Sales Tax Amendment Act, 1977*.

Short title

An Act to amend
The Retail Sales Tax Act

1st Reading

June 27th, 1977

2nd Reading

July 5th, 1977

3rd Reading

THE HON. MARGARET SCRIVENER
Minister of Revenue

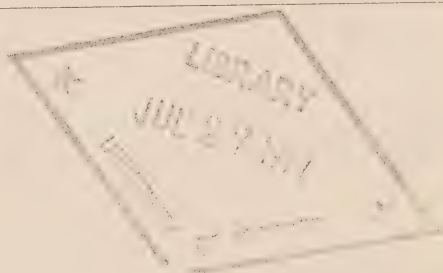
*(Reprinted as amended by the Committee
of the Whole House)*

BILL 12

1ST SESSION, 31ST LEGISLATURE, ONTARIO
26 ELIZABETH II, 1977

An Act to amend The Retail Sales Tax Act

THE HON. MARGARET SCRIVENER
Minister of Revenue



TORONTO

PRINTED BY J. C. THATCHER, QUEEN'S PRINTER FOR ONTARIO

BILL 12

1977

An Act to amend The Retail Sales Tax Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Paragraph 7 of section 1 of *The Retail Sales Tax Act*, being ^{s. 1, par. 7, amended} chapter 415 of the Revised Statutes of Ontario, 1970, is amended by inserting after "means" in the first line "an amusement park or" and by inserting after "performance" in the sixth line "or entertainment".
- 2.—(1) Paragraph 2 of subsection 2 of section 2 of the said Act, ^{s. 2 (2), par. 2, re-enacted} as re-enacted by the Statutes of Ontario, 1976, chapter 23, section 2, is repealed and the following substituted therefor:
 2. prepared meals sold at a price of over \$6.00.
- (2) Subsection 4 of the said section 2 is repealed and the ^{s. 2 (4), re-enacted} following substituted therefor:
 - (4) Every purchaser of admission to a place or places of amusement shall pay to Her Majesty in right of Ontario a ^{Tax on admission to a place of amusement} tax computed at the rate of 10 per cent of the price of admission where the price of admission exceeds \$3.00.
- (3) Subsection 6 of the said section 2 is repealed and the ^{s. 2 (6), re-enacted} following substituted therefor:
 - (6) Where the Minister considers it necessary or advisable, ^{Determination of fair value} he may determine the amount of any price of admission, or the fair value of any tangible personal property or taxable service, for the purposes of taxation under this Act, and thereupon the price of admission, or fair value of such tangible personal property or taxable service, for such purpose shall be as so determined by him unless, in proceedings instituted by an appeal under section 20, it is established that the determination is unreasonable.

s. 4 (1),
amended

3.—(1) Subsection 1 of section 4 of the said Act, as amended by the Statutes of Ontario, 1973, chapter 23, section 3, is further amended by striking out “as defined in *The Bulk Sales Act*” in the second line and inserting in lieu thereof “to which *The Bulk Sales Act* applies”.

s. 4 (2),
amended

(2) Subsection 2 of the said section 4 is amended by striking out “as defined in *The Bulk Sales Act*” in the first and second lines and inserting in lieu thereof “to which *The Bulk Sales Act* applies”.

s. 5 (1), par. 2,
amended

4.—(1) Paragraph 2 of subsection 1 of section 5 of the said Act, as re-enacted by the Statutes of Ontario, 1973, chapter 23, section 4 and amended by 1976, chapter 23, section 3, is further amended by striking out “\$5.00” in the second line and in the fourth line, as inserted by the amendment of 1976, and inserting in lieu thereof in each instance “\$6.00”.

s. 5 (1), par. 2a,
amended

(2) Paragraph 2a of subsection 1 of the said section 5, as enacted by the Statutes of Ontario, 1973, chapter 23, section 4 and amended by 1976, chapter 23, section 3, is further amended by striking out “\$5.00” in the sixth line, as inserted by the amendment of 1976, and inserting in lieu thereof “\$6.00”.

s. 5 (1), par. 24b,
re-enacted

(3) Paragraph 24b of subsection 1 of the said section 5, as enacted by the Statutes of Ontario, 1976, chapter 23, section 3, is repealed and the following substituted therefor:

24b. materials or equipment that are used for the conservation of energy and that are,

- (a) thermal insulation materials, as defined by the Minister, that are sold primarily to insulate buildings and that are not primarily for a use prescribed by the Minister to be excluded from the exemption conferred by this paragraph,
- (b) heat pumps for use principally to provide heat in the heating system of a building,
- (c) heat recovery units or devices for extracting heat from exhaust air or waste water to recover energy,
- (d) solar cells to be used to produce directly from sunlight electricity to charge batteries,

- (e) solar furnaces, panels and tubes specially designed to collect and convert solar energy into heat for use in a solar heating system,
- (f) windmills and wind-powered generators that produce mechanical or electrical energy, and pumps and generators specially designed for use directly with such devices,
- (g) timer-controlled thermostats for heating systems in buildings and automatic timer controls for electrical equipment,
- (h) wood-burning stoves and wood-burning furnaces, or
- (i) wind deflectors for trucks;

24c. tangible personal property that is prescribed by the Minister for the purpose of this paragraph and that is purchased by a vendor to be consumed by him in the provision of transient accommodation.

5. Clauses *a* and *b* of subsection 1 of section 11 of the said Act, ^{s. 11 (1) (a, b), re-enacted} as enacted by the Statutes of Ontario, 1975, chapter 9, section 5, are repealed and the following substituted therefor:

(a) \$700; or

(b) the aggregate of,

- (i) 4 per cent of the tax collected by the vendor in such period and shown in a return that is made in accordance with this Act and the regulations and in which the tax shown to have been so collected is \$75 or more,
- (ii) \$3 for each return with respect to tax collected by the vendor in such period that is made in accordance with this Act and the regulations and in which the tax shown to have been so collected exceeds \$3 and is less than \$75, and
- (iii) the tax collected by the vendor in such period and shown on a return that is made in accordance with this Act and the regulations and in which the tax shown to have been so collected does not exceed \$3,

s. 18,
amended

6. Section 18 of the said Act, as amended by the Statutes of Ontario, 1975, chapter 9, section 7, is further amended by adding thereto the following subsections:

Trust money
in liquidation
proceedings

(2) Where, by the order of a court or otherwise, any property of a vendor is lawfully taken from his control or possession for the purposes of liquidation in receivership proceedings, winding-up proceedings or for the purpose of a distribution to creditors pursuant to a general assignment made for the benefit of creditors, an amount equal to the amount of tax that was collected by the vendor and that by subsection 1 is deemed to be held in trust for Her Majesty in right of Ontario, shall, to the extent of the amount of tax that was collected by the vendor in the year immediately preceding the date when the vendor lost control or possession of his property and was not remitted to the Treasurer as required by subsection 1, be deemed to be separate from, and to form no part of, the estate or property in liquidation, whether or not that amount has in fact been kept separate and apart from the vendor's own property and in trust in accordance with subsection 1.

Minister's
certificate

R.S.O. 1970,
c. B-3

(3) Every person who, as assignee, liquidator, administrator, receiver, receiver-manager, trustee or other like person, other than a trustee appointed under the *Bankruptcy Act* (Canada), takes control or possession of the property of any vendor holding a valid and subsisting permit issued under section 3 shall, before distributing such property or the proceeds from the realization thereof under his control, obtain from the Minister a certificate that the tax collected by the vendor in the year immediately preceding the date when the vendor lost control or possession of his property and not remitted by the vendor as required by subsection 1 has been paid or that security therefor acceptable to the Minister has been given, and any assignee, liquidator, administrator, receiver, receiver-manager, trustee or other like person, other than a trustee appointed under the *Bankruptcy Act* (Canada), who distributes any such property or the proceeds of the realization thereof without having obtained the certificate required by this subsection is personally liable to Her Majesty in right of Ontario for an amount equal to the amount of tax that was collected by the vendor in the year immediately preceding the date when the vendor lost control or possession of his property and not remitted to the Treasurer as required by subsection 1.

s. 30 (2),
amended

7. Subsection 2 of section 30 of the said Act is amended by inserting after "15" in the fourth line "or 15a".

s. 31,
amended

8. Section 31 of the said Act is amended by adding thereto the following subsections:

(6) Subject to *The Wages Act*, where the Minister has under this section required an employer to pay to the Treasurer on account of an employee's liability under this Act moneys otherwise payable by the employer to the employee as remuneration, the requirement is applicable to all future payments by the employer to the employee in respect of remuneration until the liability under this Act is satisfied and operates to require payments to the Treasurer out of each payment of remuneration of such amount as may be stipulated by the Minister in the registered letter or letter served personally.

Garnishment
of wages
R.S.O. 1970,
c. 486

(7) Where any person, without reasonable excuse, has failed to remit to the Treasurer the moneys as required under this section, the Minister may apply before a judge of the Supreme Court for an order directing such person to remit the moneys which he has failed to remit.

Failure
to remit

9.—(1) This Act, except section 1, subsections 1 and 2 of section 2, and sections 4, 5 and 7, comes into force on the day it receives Royal Assent.

Commence-
ment

(2) Section 7 shall be deemed to have come into force on the 7th day of April, 1976.

Idem

(3) Section 5 shall be deemed to have come into force on the 1st day of April, 1977.

Idem

(4) Section 1, subsections 1 and 2 of section 2 and section 4 shall be deemed to have come into force on the 20th day of April, 1977.

Idem

10. The short title of this Act is *The Retail Sales Tax Amendment Act, 1977*.

Short title

An Act to amend
The Retail Sales Tax Act

1st Reading

June 27th, 1977

2nd Reading

July 5th, 1977

3rd Reading

July 6th, 1977

THE HON. MARGARET SCRIVENER
Minister of Revenue

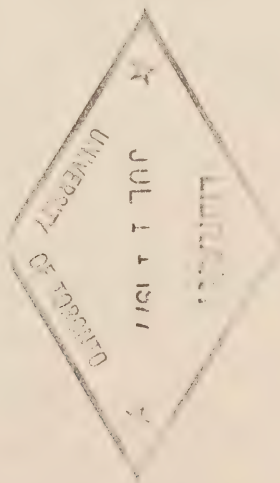
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1ST SESSION, 31ST LEGISLATURE, ONTARIO
26 ELIZABETH II, 1977

Government
Publications

An Act to amend The Land Transfer Tax Act, 1974

THE HON. M. SCRIVENER
Minister of Revenue



TORONTO

PRINTED BY J. C. THATCHER, QUEEN'S PRINTER FOR ONTARIO

EXPLANATORY NOTES

GENERAL

In accordance with the Treasurer's Budget, the amendments proposed in this Bill provide that the registration of conveyances of commercial, industrial or residential land will attract the same tax, whether the transferee of the conveyance is a resident of Canada or a non-resident person. Non-residents who acquire farmland or recreational land in Ontario will continue to pay tax at the higher rate. In addition to the amendments necessary to implement the Budget proposals, certain administrative amendments are proposed to facilitate the collection of tax and the fairer application of the Act.

SECTION 1. Subsection 1 defines recreational land, residential land and unrestricted land. Unrestricted land includes all land zoned for commercial or industrial use and all land having a residential assessment under *The Assessment Act* or that is in use for commercial, industrial or residential purposes. Unrestricted land does not include land that is assessed or used as farmland, recreational land or woodlands.

Subsection 2 of section 1 provides that the consideration on which tax is based when land is acquired by the foreclosure of a mortgage or charge is the lesser of the amount owing on the mortgage or charge or the fair market value of the land. Thus, where the costs secured by the mortgage at the time of foreclosure exceed the value of the land, tax is determined on the lower value.

Subclause iv of clause *m* now reads as follows:

(*m*) "*value of the consideration*" includes,

.

(iv) *in the case of a final order of foreclosure under any mortgage or charge affecting land, the amount owed under the mortgage at the time it was foreclosed, including principal, interest and all costs and expenses, other than municipal taxes, secured by the mortgage and owing at that time.*

BILL 13

1977

**An Act to amend
The Land Transfer Tax Act, 1974**

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

- 1.—(1) Subsection 1 of section 1 of *The Land Transfer Tax Act, 1974*, being chapter 8, as amended by the Statutes of Ontario, 1974, chapter 93, section 1, is further amended by adding thereto the following clauses:

(ha) “recreational land” means land that is not used exclusively as residential land and that is predominantly used for the recreation and enjoyment of its owner or lessee or those, other than persons using the land for agricultural purposes, who are permitted by such owner or lessee to be on the land;

(hb) “residential” means, when used in respect of land, the land subjacent to a building that is the main and principal residence of the occupants, whether as owners or tenants, and includes all immediately contiguous lands necessary and used for such residence;

(la) “unrestricted land” means land that,

- (i) under a by-law passed pursuant to section 35 of *The Planning Act*, or under an order made pursuant to section 32 of that Act is zoned for commercial or industrial use, or

- (ii) where subclause i does not apply, is assessed under *The Assessment Act* for residential assessment or is lawfully used and occupied or was last lawfully used or occupied for commercial, industrial or residential purposes,

R.S.O. 1970,
c. 32

and that is not assessed under *The Assessment Act*, or is not actually used, as farm or agricultural land, woodlands, recreational land or as an orchard.

s. 1 (1) (m) (iv),
re-enacted

(2) Subclause iv of clause *m* of subsection 1 of the said section 1 is repealed and the following substituted therefor:

(iv) in the case of a final order of foreclosure under any mortgage or charge affecting land, the lesser of,

(A) the amount owed under the mortgage or charge at the time it was foreclosed, including principal, interest and all other costs and expenses, other than municipal taxes, secured by the mortgage or charge and owing at that time, or

(B) an amount established to the satisfaction of the Minister to be equal to the fair market value of the land that is subject to the mortgage or charge.

s. 2 (1),
re-enacted

2.—(1) Subsection 1 of section 2 of the said Act is repealed and the following substituted therefor:

Tax
imposed

(1) Every person who tenders for registration in Ontario,

(a) a conveyance whereby any land is conveyed to or in trust for any transferee who is not a non-resident person; or

(b) a conveyance that is a conveyance only of unrestricted land and upon which is endorsed or to which is attached a certification by the Minister, or by some person authorized by the Minister in writing to make the certification, that all of the land being conveyed is unrestricted land,

shall, before the conveyance is registered, pay a tax computed at the rate of three-tenths of 1 per cent of the value of the consideration for the conveyance up to and including \$35,000, and at the rate of six-tenths of 1 per cent upon the remainder of the value of the consideration.

s. 2 (2),
amended

(2) Subsection 2 of the said section 2 is amended by inserting after "land" in the second line "that is not unrestricted land".

SECTION 2.—Subsections 1 and 2. These amendments provide that the tax rate of three-tenths of 1 per cent on the first \$35,000 and six-tenths of 1 per cent on the remainder of the consideration for the transfer of land apply to any land purchased by a Canadian resident and to any unrestricted land. The registration of a conveyance of land that is not unrestricted land will continue to attract tax at the rate of 20 per cent when acquired by a non-resident person.

Subsections 1 and 2 of section 2 of the Act now read as follows:

- (1) *Every person who tenders for registration in Ontario a conveyance whereby any land is conveyed to or in trust for any transferee who is not a non-resident person shall, before the conveyance is registered, pay a tax computed at the rate of three-tenths of 1 per cent of the value of the consideration for the conveyance up to and including \$35,000, and at the rate of six-tenths of 1 per cent upon the remainder of the value of the consideration.*
- (2) *Every person who tenders for registration in Ontario a conveyance whereby any land is conveyed to or in trust for any transferee who is a non-resident person shall, before the conveyance is registered, pay a tax computed at the rate of 20 per cent of the value of the consideration for the conveyance.*

Subsection 3. The amendment provides for applying the proper tax rate to the registration of a conveyance of unrestricted land and land that is not unrestricted land.

SECTION 3.—Subsection 1. The amendment provides that the affidavit disclosing the consideration for a conveyance of land must be made by the transferee or his agent or solicitor. This is the same requirement as for the affidavit of residence under the Act. This change will facilitate simplification of the forms under the Act and the combination of these affidavits with other affidavits required to be registered with a conveyance by other statutes. The repealed subsection 2 of section 4 differs materially from the amendment proposed only to the extent that it allowed the affidavit of consideration to be made by either the transferor or the transferee.

The amendment also enables the affidavit of residence and the affidavit of value of consideration to be consolidated in one form.

Subsection 2 of section 4 of the Act now reads as follows:

- (2) *The affidavit required by subsection 1 may be made by the person making the conveyance or by the transferee or by any person acting for either of them under a power of attorney or as an agent authorized in writing so to act, or by the solicitor for the person making the conveyance or for the transferee, or by some other person authorized in writing by the Minister to make the affidavit.*

Subsection 2. The amendment re-enacts subsection 3 to clarify the wording of some clauses and to permit the affidavit of residence to be taken on behalf of a corporation by an officer of that corporation and to be taken by one spouse on behalf of both. The new subsection 4 removes the requirement to attach written authorizations of agency to the affidavits, and requires only that a deponent acting on behalf of another should state his capacity and the name of the person for whom he is acting. The subsections being repealed read:

- (3) *In addition to the affidavit required by subsection 1, there shall be filed with the collector and attached by him to the conveyance to which it relates an affidavit in Form 1 or in such other form as is prescribed, and the affidavit shall be made by,*
- (a) the transferee to whom or in trust for whom any land is conveyed;*
 - (b) a trustee to whom any land is conveyed and who is shown as a trustee in the conveyance;*
 - (c) the transferee named in the conveyance;*
 - (d) an agent of any person referred to in clause a, b or c, if the agent is authorized in writing to make the affidavit; or*
 - (e) the solicitor acting in the transaction as the solicitor for any person referred to in clause a, b or c,*

and such affidavit shall state whether the transferee to whom the land is being conveyed is a non-resident person or the trustee for a non-resident person, and shall state such other information as is required in order to complete the affidavit.

- (3) The said section 2, as amended by the Statutes of Ontario, ^{s.2, amended} 1974, chapter 93, section 2, is further amended by adding thereto the following subsection:

(6) Where only a part of the land being conveyed is ^{Apportionment of consideration} unrestricted land and the conveyance is to or in trust for any non-resident person, the Minister may, to the extent that he considers it practicable, determine what amount of the value of the consideration for the conveyance is reasonably attributable to the unrestricted land being conveyed, and the person tendering the conveyance for registration is, notwithstanding subsection 1 or 2, liable to a tax computed at the rate of six-tenths of 1 per cent of such amount so determined, and is liable to a tax computed at the rate of 20 per cent of the amount of the value of the consideration for the conveyance that is determined by the Minister not to be reasonably attributable to the unrestricted land being conveyed.

- 3.—(1) Subsection 2 of section 4 of the said Act is repealed and ^{s.4(2), re-enacted} the following substituted therefor:

(2) The affidavit required by subsection 1 shall be made ^{Affidavit by whom to be made} by the persons who are required to make the affidavit required by subsection 3, and notwithstanding subsection 3, the Minister may prescribe a form in which the affidavits required by subsection 1 or 3 are combined as one affidavit for the purposes of those subsections.

- (2) Subsections 3 and 4 of the said section 4 are repealed and ^{s.4(3,4), re-enacted} the following substituted therefor:

(3) In addition to the affidavit required by subsection 1, ^{Affidavit as to residence} there shall be filed with the collector and attached by him to the conveyance to which it relates an affidavit in Form 1 or in such other form as is prescribed, and the affidavit shall be made by,

- (a) each transferee to whom or in trust for whom any land is conveyed by the conveyance to which the affidavit relates;
- (b) each trustee to whom any land is conveyed and who is shown as a trustee in the conveyance to which the affidavit relates;
- (c) each transferee named in the conveyance to which the affidavit relates;

- (d) an agent of any person referred to in clause *a*, *b* or *c*, if the agent is authorized in writing to make the affidavit;
- (e) the solicitor acting in the transaction as the solicitor for any person referred to in clause *a*, *b* or *c*;
- (f) the presiding officer authorized to act for a corporation that is a person referred to in clause *a*, *b* or *c*, or the Vice-President, Manager, Secretary, Director or Treasurer authorized to act for such corporation; or
- (g) either of two transferees who are married to each other and both of whom are transferees referred to in clause *a*, *b* or *c*, where the transferee making the affidavit is acting on behalf of the other of such transferees,

and such affidavit shall state whether the transferee to whom the land is being conveyed is a non-resident person or the trustee for a non-resident person, and shall state such other information as is required in order to complete the affidavit.

Affidavits,
what to
contain

- (4) The affidavit required by subsection 1 or 3 shall state that the person making it has personal knowledge of the facts stated in it, and shall state, where applicable, the capacity in which such person is making the affidavit and the name of any transferee on whose behalf such person is making the affidavit.

s. 4 (6),
amended

- (3) Subsection 6 of the said section 4, as amended by the Statutes of Ontario, 1974, chapter 93, section 3, is further amended by striking out "7" in the first line as inserted by the amendment of 1974 and inserting in lieu thereof "7 or 8".

s. 4,
amended

- (4) The said section 4 is further amended by adding thereto the following subsection:

Affidavit
as to
residence not
required

- (8) Notwithstanding subsection 3, where a conveyance tendered for registration has endorsed upon it or attached to it the certification in accordance with clause *b* of subsection 1 of section 2 that all of the land being conveyed is unrestricted land, no affidavit is required under subsection 3 on the tender of such conveyance for registration.

s. 8,
amended

- 4. Section 8 of the said Act, as amended by the Statutes of Ontario, 1974, chapter 93, section 5, is further amended by adding thereto the following subsection:

- (4) *The affidavit required by subsection 1 or 3 shall state that the person making it has personal knowledge of the facts stated in it, and there shall be filed with the affidavit the power of attorney or written authorization, if any, referred to in subsection 2 or 3.*

Subsections 3 and 4. The amendments dispense with the affidavit of residence where the land being conveyed is unrestricted land, since the same rates of tax apply regardless of the residence of the transferee.

Subsection 6 of section 4 now reads as follows:

- (6) *Except as provided in subsection 7, where a conveyance is tendered for registration without the affidavit required by subsection 3, tax is payable at the rate provided in subsection 2 of section 2, and the collector shall not register the conveyance until such tax is paid, but if it is subsequently established to the satisfaction of the Minister that, had the affidavit required by subsection 3 been furnished to the collector, tax would have been payable as provided in subsection 1 of section 2, the Minister may refund the amount paid under this subsection in excess of the tax provided for in subsection 1 of section 2.*

SECTION 4. The amendment provides for refunds of tax paid at the higher rate on land that is later established to have been unrestricted land and taxable at the lower rates.

SECTION 5. The amendment provides that an assessment of tax must be made within four years unless there has been misrepresentation or fraud, in which case the four year limitation does not apply. The subsection replaced by this amendment reads as follows:

- (4) *The Minister may, at any time he considers reasonable, assess or reassess any tax payable by any person under this Act.*

SECTION 6. The amendment adds two new sections to the Act, sections 14*a* and 14*b*. These sections add to the Act provisions similar to those in the other revenue statutes of the Province, and enable the Minister to recover unpaid tax by action in the courts, by execution or by garnishment.

(4) Where tax has been paid with respect to the registration of a conveyance of unrestricted land to or in trust for a non-resident person, and it is established to the satisfaction of the Minister that the certification in accordance with clause *b* of subsection 1 of section 2 was erroneously refused after full and complete disclosure of all relevant circumstances and facts to the person requested to make the certification, the Minister may refund any tax that would not have been payable had the certification been properly given, provided that application for such refund is made within three years of the payment of the tax of which a refund is sought.

Refunds on conveyances of unrestricted land

5. Subsection 4 of section 12 of the said Act is repealed and the following substituted therefor:

s. 12 (4), re-enacted

(4) The Minister may assess or reassess any person for any tax payable by him under this Act within four years from the day such tax became payable, except that, where the Minister establishes that a person has made any misrepresentation that is attributable to neglect, carelessness or wilful default, or has committed any fraud, in supplying any information under this Act, in making any affidavit required by this Act, or in omitting to disclose any information, the Minister may assess or reassess at any time he considers reasonable the tax payable by such person.

Limitation on assessment

6. The said Act is further amended by adding thereto the following sections:

ss. 14a, 14b, enacted

14a.—(1) Upon default of payment of an amount assessed under section 12,

Recovery of tax

(a) the Minister may bring an action for the recovery thereof in any court in which a debt or money demand of a similar amount may be collected, and every such action shall be brought and executed in and by the name of the Minister or his name of office and may be continued by his successor in office as if no change had occurred and shall be tried without a jury; and

(b) the Minister may issue a warrant directed to the sheriff of any county or district in which any property of a person assessed for tax under this Act is located or situate for the amount of the tax, interest and penalty or any of them owing by him, together with interest thereon from the date of the issue of the warrant and the costs and expenses of the sheriff, and such warrant has the

same force and effect as a writ of execution issued out of the Supreme Court on a judgment in favour of the Crown.

Compliance
to be
proved by
affidavit

(2) For the purpose of any proceeding taken under this Act, the facts necessary to establish compliance on the part of the Minister with this Act as well as the failure of any person to comply with the requirements of this Act shall, unless evidence to the contrary satisfactory to the court is adduced, be sufficiently proved in any court of law by affidavit of the Minister or of any officer of the Ministry of Revenue.

Remedies
for recovery
of tax

(3) The use of any of the remedies provided by this section does not bar or affect any of the other remedies therein provided, and the remedies provided by this Act for the recovery and enforcement of the payment of any tax imposed by this Act are in addition to any other remedies existing by law, and no action or other proceeding taken in any way prejudices, limits or affects any lien, charge or priority existing under this Act or at law in favour of the Crown.

Garnishment

14b.—(1) When the Minister has knowledge or suspects that a person is or is about to become indebted or liable to make any payment to a person liable to make a payment under this Act, he may, by registered letter or by a letter served personally, require the first-named person to pay the moneys otherwise payable to the second-named person in whole or in part to the Treasurer on account of the liability under this Act.

Idem

(2) The receipt of the Treasurer for moneys paid as required under this section is a good and sufficient discharge of the original liability to the extent of the payment.

Liability
of debtor

(3) Every person who has discharged any liability to a person liable to make a payment under this Act without complying with the requirements under this section is liable to pay to the Treasurer an amount equal to the liability discharged or the amount that he was required under this section to pay to the Treasurer, whichever is the lesser.

Service on
garnishee

(4) Where a person who is or is about to become indebted or liable to make a payment to a person liable to make a payment under this Act carries on business under a name or style other than his own name, the registered or other letter under subsection 1 may be addressed to the name or style under which he carries on business and, in the case of personal service, shall be deemed to have been validly

SECTION 7.—Subsection 1. The clauses being repealed enabled the Minister, with the approval of the Lieutenant Governor in Council, to defer or remit tax on the condition that a non-resident corporation acquiring land would become a resident corporation. These clauses are considered no longer to be required now that commercial, industrial and residential land can be acquired by a non-resident person at the lower rates of tax.

Subsection 2. The amendment provides that, where the lessee of land acquires the remaining interest in the land from the lessor, the consideration paid to the lessor can be reduced by the amount of the consideration on which the lessee paid tax under this Act when he acquired his leasehold interest. This provision will only apply where the lease, at the time the lessee acquired it, was for more than fifty years. Leases for a shorter term do not attract tax under the Act. On the leases that are taxable, the tax is based on the fair market value of the land leased, and the amendment will prevent the lessee from paying tax on the same consideration a second time when he acquires the lessor's remaining interest in the land.

served if it has been left with an adult person employed at the place of business of the addressee.

(5) Where the persons who are or are about to become Idem indebted or liable to make a payment to a person liable to make a payment under this Act carry on business in partnership, the registered or other letter under subsection 1 may be addressed to the partnership name and, in the case of personal service, shall be deemed to have been validly served if it has been served on one of the partners or left with an adult person employed at the place of business of the partnership.

(6) Subject to the provisions of *The Wages Act*, where the Minister has under this section required an employer to pay to the Treasurer on account of an employee's liability under this Act moneys otherwise payable by the employer to the employee as remuneration, the requirement is applicable to all future payments by the employer to the employee in respect of remuneration until the liability under this Act is satisfied and operates to require payments to the Treasurer out of each payment of remuneration of such amount as may be stipulated by the Minister in the registered letter or letter served personally. Garnishment of wages R.S.O. 1970, c. 486

(7) Where any person, without reasonable excuse, has failed to remit to the Treasurer the moneys as required under this section, the Minister may apply before a judge of the Supreme Court for an order directing such person to remit the moneys which he has failed to remit. Failure to remit

7.—(1) Subsection 1 of section 16 of the said Act, as re-enacted by the Statutes of Ontario, 1974, chapter 93, section 7, is amended by adding "or" at the end of clause *c* and by striking out clauses *e*, *f* and *g*. s. 16 (1), amended

(2) The said section 16, as amended by the Statutes of Ontario, 1974, chapter 93, section 7, is further amended by adding thereto the following subsections: s. 16, amended

(5a) Where a person entitled to the leasehold interest in land acquires the freehold interest therein, the value of the consideration for the conveyance to that person of the freehold interest may be reduced by the amount of the value of the consideration for the conveyance by which such person acquired his leasehold interest in the land if the value of that consideration was determined under sub-clause *v* of clause *m* of subsection 1 of section 1 and if tax was computed and paid with respect to the value of Reduction of consideration on lessee acquiring freehold

that consideration so determined, but the reduction shall not exceed the value of the consideration for the conveyance of the freehold interest.

Interpre-
tation

(5*b*) For the purposes of clause *b* of subsection 1, farming shall not be considered to be an active commercial or industrial business.

Commence-
ment

8.—(1) This Act, except sections 1, 2, 3, 4 and 7 comes into force on the day it receives Royal Assent.

Idem

(2) Sections 1 and 2, subsections 2, 3 and 4 of section 3, and sections 4 and 7 shall be deemed to have come into force on the 20th day of April, 1977.

Idem

(3) Subsection 1 of section 3 comes into force on a day to be named by proclamation of the Lieutenant Governor.

Short title

9. The short title of this Act is *The Land Transfer Tax Amendment Act, 1977*.

An Act to amend
The Land Transfer Tax Act, 1974

1st Reading

June 27th, 1977

2nd Reading

3rd Reading

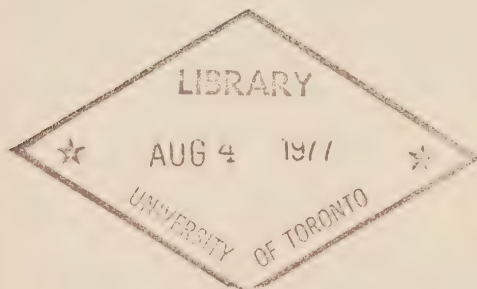
THE HON. M. SCRIVENER
Minister of Revenue

(Government Bill)

1ST SESSION, 31ST LEGISLATURE, ONTARIO
26 ELIZABETH II, 1977

An Act to amend The Land Transfer Tax Act, 1974

THE HON. MARGARET SCRIVENER
Minister of Revenue



TORONTO

PRINTED BY J. C. THATCHER, QUEEN'S PRINTER FOR ONTARIO

An Act to amend The Land Transfer Tax Act, 1974

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

- 1.—(1) Subsection 1 of section 1 of *The Land Transfer Tax Act, 1974*, being chapter 8, as amended by the Statutes of Ontario, 1974, chapter 93, section 1, is further amended by adding thereto the following clauses:

(ha) “recreational land” means land that is not used exclusively as residential land and that is predominantly used for the recreation and enjoyment of its owner or lessee or those, other than persons using the land for agricultural purposes, who are permitted by such owner or lessee to be on the land;

(hb) “residential” means, when used in respect of land, the land subjacent to a building that is the main and principal residence of the occupants, whether as owners or tenants, and includes all immediately contiguous lands necessary and used for such residence;

(la) “unrestricted land” means land that,

- (i) under a by-law passed pursuant to section 35 of *The Planning Act*, or under an order made pursuant to section 32 of that Act is zoned for commercial or industrial use, or R.S.O. 1970,
c. 349
- (ii) where subclause i does not apply, is assessed under *The Assessment Act* for residential assessment or is lawfully used and occupied or was last lawfully used or occupied for commercial, industrial or residential purposes, R.S.O. 1970,
c. 32

R.S.O. 1970,
c. 32

and that is not assessed under *The Assessment Act*, or is not actually used, as farm or agricultural land, woodlands, recreational land or as an orchard.

s. 1 (1) (m) (iv),
re-enacted

- (2) Subclause iv of clause *m* of subsection 1 of the said section 1 is repealed and the following substituted therefor:

(iv) in the case of a final order of foreclosure under any mortgage or charge affecting land, the lesser of,

(A) the amount owed under the mortgage or charge at the time it was foreclosed, including principal, interest and all other costs and expenses, other than municipal taxes, secured by the mortgage or charge and owing at that time, or

(B) an amount established to the satisfaction of the Minister to be equal to the fair market value of the land that is subject to the mortgage or charge.

s. 2 (1),
re-enacted

- 2.—(1) Subsection 1 of section 2 of the said Act is repealed and the following substituted therefor:

Tax
imposed

- (1) Every person who tenders for registration in Ontario,
- (a) a conveyance whereby any land is conveyed to or in trust for any transferee who is not a non-resident person; or
- (b) a conveyance that is a conveyance only of unrestricted land and upon which is endorsed or to which is attached a certification by the Minister, or by some person authorized by the Minister in writing to make the certification, that all of the land being conveyed is unrestricted land,

shall, before the conveyance is registered, pay a tax computed at the rate of three-tenths of 1 per cent of the value of the consideration for the conveyance up to and including \$35,000, and at the rate of six-tenths of 1 per cent upon the remainder of the value of the consideration.

s. 2 (2),
amended

- (2) Subsection 2 of the said section 2 is amended by inserting after "land" in the second line "that is not unrestricted land".

- (3) The said section 2, as amended by the Statutes of Ontario, ^{s.2, amended} 1974, chapter 93, section 2, is further amended by adding thereto the following subsection:

(6) Where only a part of the land being conveyed is ^{Apportionment of consideration} unrestricted land and the conveyance is to or in trust for any non-resident person, the Minister may, to the extent that he considers it practicable, determine what amount of the value of the consideration for the conveyance is reasonably attributable to the unrestricted land being conveyed, and the person tendering the conveyance for registration is, notwithstanding subsection 1 or 2, liable to a tax computed at the rate of six-tenths of 1 per cent of such amount so determined, and is liable to a tax computed at the rate of 20 per cent of the amount of the value of the consideration for the conveyance that is determined by the Minister not to be reasonably attributable to the unrestricted land being conveyed.

- 3.—(1) Subsection 2 of section 4 of the said Act is repealed and ^{s.4 (2), re-enacted} the following substituted therefor:

(2) The affidavit required by subsection 1 shall be made ^{Affidavit by whom to be made} by the persons who are required to make the affidavit required by subsection 3, and notwithstanding subsection 3, the Minister may prescribe a form in which the affidavits required by subsection 1 or 3 are combined as one affidavit for the purposes of those subsections.

- (2) Subsections 3 and 4 of the said section 4 are repealed and ^{s.4 (3,4), re-enacted} the following substituted therefor:

(3) In addition to the affidavit required by subsection 1, ^{Affidavit as to residence} there shall be filed with the collector and attached by him to the conveyance to which it relates an affidavit in Form 1 or in such other form as is prescribed, and the affidavit shall be made by,

- (a) each transferee to whom or in trust for whom any land is conveyed by the conveyance to which the affidavit relates;
- (b) each trustee to whom any land is conveyed and who is shown as a trustee in the conveyance to which the affidavit relates;
- (c) each transferee named in the conveyance to which the affidavit relates;

- (d) an agent of any person referred to in clause *a*, *b* or *c*, if the agent is authorized in writing to make the affidavit;
- (e) the solicitor acting in the transaction as the solicitor for any person referred to in clause *a*, *b* or *c*;
- (f) the presiding officer authorized to act for a corporation that is a person referred to in clause *a*, *b* or *c*, or the Vice-President, Manager, Secretary, Director or Treasurer authorized to act for such corporation; or
- (g) either of two transferees who are married to each other and both of whom are transferees referred to in clause *a*, *b* or *c*, where the transferee making the affidavit is acting on behalf of the other of such transferees,

and such affidavit shall state whether the transferee to whom the land is being conveyed is a non-resident person or the trustee for a non-resident person, and shall state such other information as is required in order to complete the affidavit.

Affidavits,
what to
contain

(4) The affidavit required by subsection 1 or 3 shall state that the person making it has personal knowledge of the facts stated in it, and shall state, where applicable, the capacity in which such person is making the affidavit and the name of any transferee on whose behalf such person is making the affidavit.

s. 4 (6),
amended

(3) Subsection 6 of the said section 4, as amended by the Statutes of Ontario, 1974, chapter 93, section 3, is further amended by striking out "7" in the first line as inserted by the amendment of 1974 and inserting in lieu thereof "7 or 8".

s. 4,
amended

(4) The said section 4 is further amended by adding thereto the following subsection:

Affidavit
as to
residence not
required

(8) Notwithstanding subsection 3, where a conveyance tendered for registration has endorsed upon it or attached to it the certification in accordance with clause *b* of subsection 1 of section 2 that all of the land being conveyed is unrestricted land, no affidavit is required under subsection 3 on the tender of such conveyance for registration.

s. 8,
amended

4. Section 8 of the said Act, as amended by the Statutes of Ontario, 1974, chapter 93, section 5, is further amended by adding thereto the following subsection:

(4) Where tax has been paid with respect to the registration of a conveyance of unrestricted land to or in trust for a non-resident person, and it is established to the satisfaction of the Minister that the certification in accordance with clause *b* of subsection 1 of section 2 was erroneously refused after full and complete disclosure of all relevant circumstances and facts to the person requested to make the certification, the Minister may refund any tax that would not have been payable had the certification been properly given, provided that application for such refund is made within three years of the payment of the tax of which a refund is sought.

Refunds on conveyances of unrestricted land

5. Subsection 4 of section 12 of the said Act is repealed and the following substituted therefor:

s. 12 (4), re-enacted

(4) The Minister may assess or reassess any person for any tax payable by him under this Act within four years from the day such tax became payable, except that, where the Minister establishes that a person has made any misrepresentation that is attributable to neglect, carelessness or wilful default, or has committed any fraud, in supplying any information under this Act, in making any affidavit required by this Act, or in omitting to disclose any information, the Minister may assess or reassess at any time he considers reasonable the tax payable by such person.

Limitation on assessment

6. The said Act is further amended by adding thereto the following sections:

ss. 14a, 14b. enacted

14a.—(1) Upon default of payment of an amount assessed under section 12,

Recovery of tax

- (a) the Minister may bring an action for the recovery thereof in any court in which a debt or money demand of a similar amount may be collected, and every such action shall be brought and executed in and by the name of the Minister or his name of office and may be continued by his successor in office as if no change had occurred and shall be tried without a jury; and
- (b) the Minister may issue a warrant directed to the sheriff of any county or district in which any property of a person assessed for tax under this Act is located or situate for the amount of the tax, interest and penalty or any of them owing by him, together with interest thereon from the date of the issue of the warrant and the costs and expenses of the sheriff, and such warrant has the

same force and effect as a writ of execution issued out of the Supreme Court on a judgment in favour of the Crown.

Compliance
to be
proved by
affidavit

(2) For the purpose of any proceeding taken under this Act, the facts necessary to establish compliance on the part of the Minister with this Act as well as the failure of any person to comply with the requirements of this Act shall, unless evidence to the contrary satisfactory to the court is adduced, be sufficiently proved in any court of law by affidavit of the Minister or of any officer of the Ministry of Revenue.

Remedies
for recovery
of tax

(3) The use of any of the remedies provided by this section does not bar or affect any of the other remedies therein provided, and the remedies provided by this Act for the recovery and enforcement of the payment of any tax imposed by this Act are in addition to any other remedies existing by law, and no action or other proceeding taken in any way prejudices, limits or affects any lien, charge or priority existing under this Act or at law in favour of the Crown.

Garnishment

14b.—(1) When the Minister has knowledge or suspects that a person is or is about to become indebted or liable to make any payment to a person liable to make a payment under this Act, he may, by registered letter or by a letter served personally, require the first-named person to pay the moneys otherwise payable to the second-named person in whole or in part to the Treasurer on account of the liability under this Act.

Idem

(2) The receipt of the Treasurer for moneys paid as required under this section is a good and sufficient discharge of the original liability to the extent of the payment.

Liability
of debtor

(3) Every person who has discharged any liability to a person liable to make a payment under this Act without complying with the requirements under this section is liable to pay to the Treasurer an amount equal to the liability discharged or the amount that he was required under this section to pay to the Treasurer, whichever is the lesser.

Service on
garnishee

(4) Where a person who is or is about to become indebted or liable to make a payment to a person liable to make a payment under this Act carries on business under a name or style other than his own name, the registered or other letter under subsection 1 may be addressed to the name or style under which he carries on business and, in the case of personal service, shall be deemed to have been validly

served if it has been left with an adult person employed at the place of business of the addressee.

(5) Where the persons who are or are about to become ^{Idem} indebted or liable to make a payment to a person liable to make a payment under this Act carry on business in partnership, the registered or other letter under subsection 1 may be addressed to the partnership name and, in the case of personal service, shall be deemed to have been validly served if it has been served on one of the partners or left with an adult person employed at the place of business of the partnership.

(6) Subject to the provisions of *The Wages Act*, where ^{Garnishment of wages} the Minister has under this section required an employer to pay to the Treasurer on account of an employee's ^{R.S.O. 1970, c. 486} liability under this Act moneys otherwise payable by the employer to the employee as remuneration, the requirement is applicable to all future payments by the employer to the employee in respect of remuneration until the liability under this Act is satisfied and operates to require payments to the Treasurer out of each payment of remuneration of such amount as may be stipulated by the Minister in the registered letter or letter served personally.

(7) Where any person, without reasonable excuse, has ^{Failure to remit} failed to remit to the Treasurer the moneys as required under this section, the Minister may apply before a judge of the Supreme Court for an order directing such person to remit the moneys which he has failed to remit.

7.—(1) Subsection 1 of section 16 of the said Act, as re-enacted ^{s. 16 (1), amended} by the Statutes of Ontario, 1974, chapter 93, section 7, is amended by adding "or" at the end of clause *c* and by striking out clauses *e*, *f* and *g*.

(2) The said section 16, as amended by the Statutes of Ontario, ^{s. 16, amended} 1974, chapter 93, section 7, is further amended by adding thereto the following subsections:

(5a) Where a person entitled to the leasehold interest in ^{Reduction of consideration on lessee acquiring freehold} land acquires the freehold interest therein, the value of the consideration for the conveyance to that person of the freehold interest may be reduced by the amount of the value of the consideration for the conveyance by which such person acquired his leasehold interest in the land if the value of that consideration was determined under sub-clause *v* of clause *m* of subsection 1 of section 1 and if tax was computed and paid with respect to the value of

that consideration so determined, but the reduction shall not exceed the value of the consideration for the conveyance of the freehold interest.

Interpre-
tation

(5*b*) For the purposes of clause *b* of subsection 1, farming shall not be considered to be an active commercial or industrial business.

Commence-
ment

8.—(1) This Act, except sections 1, 2, 3, 4 and 7 comes into force on the day it receives Royal Assent.

Idem

(2) Sections 1 and 2, subsections 2, 3 and 4 of section 3, and sections 4 and 7 shall be deemed to have come into force on the 20th day of April, 1977.

Idem

(3) Subsection 1 of section 3 comes into force on a day to be named by proclamation of the Lieutenant Governor.

Short title

9. The short title of this Act is *The Land Transfer Tax Amendment Act, 1977*.

An Act to amend
The Land Transfer Tax Act, 1974

1st Reading

June 27th, 1977

2nd Reading

July 5th, 1977

3rd Reading

July 6th, 1977

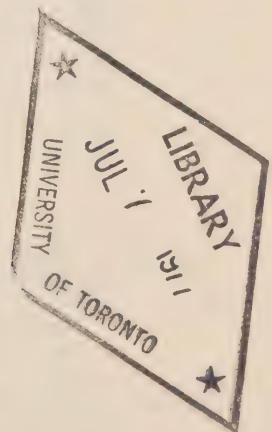
THE HON. MARGARET SCRIVENER
Minister of Revenue

1ST SESSION, 31ST LEGISLATURE, ONTARIO
26 ELIZABETH II, 1977

Government
Publications

An Act to amend The Land Speculation Tax Act, 1974

THE HON. M. SCRIVENER
Minister of Revenue



TORONTO

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EXPLANATORY NOTES

Proposed amendments to *The Land Transfer Tax Act, 1974* necessitate some changes to *The Land Speculation Tax Act, 1974*.

Dispositions of designated land by a change in the ownership of shares of a corporation to non-resident persons within the meaning given to that expression in *The Land Transfer Tax Act, 1974*, will not attract the tax imposed under section 2 (2) of the Act where the designated land being conveyed is "unrestricted land" as defined in amendments to *The Land Transfer Tax Act, 1974* proposed by the Treasurer in his Budget.

The period during which investment property must be held in order to qualify for a complete reduction of tax is reduced from ten to five years. Apportionment for both the investment property reduction and the farm property reduction is now provided for on a monthly rather than annual basis. Certain time periods during which farm land is leased may now be included in the period during which the farm tax reduction may be earned.

A further amendment recognizes that where a transferor grants a taxable lease and then reacquires the rights under that lease, he should be given a write-up to the fair market value of the designated land underlying the lease as of the date of such taxable disposition, thereby recognizing that such transferor has paid tax on the increase in the value of the designated land up to that date.

In addition, certain administrative amendments are proposed to facilitate the collection of tax and the fairer application of the Act.

SECTION 1.—Subsection 1. The amendment is consequential on the addition of the new sub-subclause "BC", added by subsection 2.

Subsection 2. The addition of sub-subclause BC establishes the acquisition cost of a transferor who has granted a lease having a term of more than fifty years which was a taxable disposition and then at a later date reacquires the rights under that lease at a time when the lease has less than fifty years to run. In this case, the transferor has paid tax on any increase in the value of the land up to the date he granted the lease over fifty years. Thus, where he reacquires the rights under that lease, his acquisition cost is the fair market value of the land as of the date he granted the original lease.

Subsection 3. This amendment is consequential on the addition of the new sub-subclause "BC".

Subsection 4. The Act presently provides that, where land acquired before April 9, 1974 is being disposed of, the transferor may use the higher of the fair market value of the designated land on that date or its actual cost of acquisition to him prior to that date. This amendment allows the cost of improvements made to the land by the transferor prior to April 9, 1974 to be added to the actual acquisition cost option so that a person holding land at April 9, 1974 will not be penalized by the fact that he has improved the land beyond its actual fair market value ascertained as of April 9, 1974.

**An Act to amend
The Land Speculation Tax Act, 1974**

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

- 1.—(1) Sub-subclause A of subclause i of clause *a* of subsection 1 of section 1 of *The Land Speculation Tax Act, 1974*, being chapter 17, as amended by the Statutes of Ontario, 1974, chapter 121, section 1, is further amended by inserting after “BB,” in the amendment of 1974 “BC,” s. 1 (1) (a)
(i) (A),
amended
- (2) Subclause i of clause *a* of subsection 1 of the said section 1 is amended by adding thereto the following sub-subclause: s. 1 (1) (a) (i),
amended
 - (BC) as the result of his reacquisition otherwise than by a disposition described in subclause iii of clause *d*, of the rights under a lease or similar arrangement that, when originally granted or effected, was a disposition by him within the meaning of subclause iii of clause *d*, that amount that was determined to be the proceeds of disposition in accordance with subclause iv of clause *l* with respect to such original disposition by him.
- (3) Sub-subclause C of subclause i of clause *a* of subsection 1 of the said section 1, as amended by the Statutes of Ontario, 1974, chapter 121, section 1, is further amended by inserting after “BB” in the amendment of 1974 “, BC”. s. 1 (1) (a)
(i) (C),
amended
- (4) Subclause ii of clause *a* of subsection 1 of the said section 1, as amended by the Statutes of Ontario, 1974, chapter 121, section 1, is repealed and the following substituted therefor: s. 1 (1) (a) (ii),
re-enacted

- (ii) where the designated land was acquired by the transferor on or before the 9th day of April, 1974, the higher of either the fair market value of the designated land ascertained as at the 9th day of April, 1974, or the sum of the cost to the transferor of the acquisition of the designated land and the cost of improvements made by him on or before the 9th day of April, 1974.

s. 1,
amended

- (5) The said section 1 is further amended by adding thereto the following subsections:

Disposition
of reversion

(13) Where the transferor is disposing of the fee simple in designated land that is, at the time of such disposition, subject to a lease or other similar arrangement that was originally granted or effected by him, he may, in lieu of the amount required by subclause i or ii of clause *a* of subsection 1 to be added to the adjusted value applicable to such disposition, add an amount equal to either,

- (a) the fair market value of the whole interest in the designated land, ascertained as of the 9th day of April, 1974, if such lease or similar arrangement was granted or effected on or before that date; or
- (b) an amount equal to the fair market value of the whole interest in the designated land at the date of the disposition made by him after the 9th day of April, 1974 by which such lease or similar arrangement was granted or effected and the proceeds of which were required to be determined in accordance with subclause iv of clause *l* of subsection 1.

Proceeds of
disposition
deemed not
to have
arisen

(14) Sub-subclause B of subclause i of clause *a* of subsection 1 as it appears on the day this subsection comes into force shall be deemed to have been in force on and after the 9th day of April, 1974 and with respect to the death of any person on or after that date resulting in a disposition described in subclause iv of clause *d* of subsection 1, no proceeds of disposition shall be deemed to have arisen.

s. 2 (2),
re-enacted

- 2. Subsection 2 of section 2 of the said Act is repealed and the following substituted therefor:

Idem

(2) Where there is a disposition within the meaning of subclause vi or vii of clause *d* of subsection 1 of section 1 of any designated land that is not unrestricted land, as defined in *The Land Transfer Tax Act, 1974* and the result of the

Subsection 5. The new subsection 13 provides an acquisition cost for a transferor disposing of the reversionary interest in land that is subject to a lease previously granted by him. If he granted the lease before April 9, 1974, he may include in his adjusted value the fair market value of the whole interest in the land as of April 9, 1974 or if he granted the lease having a term of more than fifty years after April 9, 1974, he is given a write-up to the fair market value of the whole interest in the land as of the date of such taxable disposition. The new subsection 14 has the effect of making a previous amendment to the Act retroactive to April 9, 1974 thus giving all persons who have taken land as the result of a death occurring on or after April 9, 1974, an acquisition cost equal to the fair market value of the property on the date of the death.

SECTION 2. The re-enactment provides that a disposition of designated land by a change in the ownership of the shares of a corporation to a non-resident person under *The Land Transfer Tax Act, 1974* will not attract the tax imposed by subsection 2 of section 2 of the Act where the designated land is "unrestricted land" within the meaning given to that expression in *The Land Transfer Tax Act, 1974* which will be amended as proposed in the Treasurer's Budget and *The Land Transfer Tax Amendment Bill* introduced contemporaneously with this Bill.

SECTION 3.—Subsection 1. This amendment removes from section 4 (d) of the Act the reference to “tourist resorts prescribed by the Minister by regulation” since tourist resorts are treated as commercial property under the Act and thus it has not been necessary for such a regulation to be passed.

Subsection 2. This amendment provides that for the purposes of section 4 (g) of the Act the date of disposition will be the time when the purchaser is first entitled to call for delivery of a conveyance of the designated land. This means that in order to claim the exemption provided for in section 4 (g) a transferor will have to construct a structure on the land worth 40 per cent of the proceeds of disposition or renovate to the extent of 20 per cent of his acquisition cost by the time of closing of the transaction rather than by the time the agreement for sale is entered into.

SECTION 4. This amendment adds a new clause that relates to the recreational property exemption described in section 4 (f) of the Act. That exemption is lost if the recreational property is sold to a non-resident and the amendment provides that in respect to the residency requirement set out in that clause, the transferor may claim the exemption if he obtains from the purchaser a residency affidavit in the form required under *The Land Transfer Tax Act, 1974* showing that the purchaser is not a non-resident person.

SECTION 5. This amendment limits the time during which the Minister may assess any person for tax under the Act to four years from the time the tax became payable except for cases of misrepresentation or fraud in which cases the Minister may assess at any time considered reasonable.

disposition is that control of the corporation beneficially interested in the designated land is exercisable by a person or a group of persons different from those by whom control of the corporation was exercisable before the disposition, there shall be imposed and levied, for the uses of Her Majesty in right of Ontario, upon the designated land a tax, in addition to the tax imposed by subsection 1, calculated on the proceeds of disposition of the designated land that is not unrestricted land, as defined in *The Land Transfer Tax Act*, 1974, c. 8, 1974 and computed at the rate of 20 per cent of such proceeds of disposition where the corporation beneficially interested in the designated land is, immediately after the disposition has occurred, a non-resident corporation as defined in *The Land Transfer Tax Act*, 1974.

- 3.—(1) Clause *d* of section 4 of the said Act is amended by striking out “as a tourist resort of a class, kind or designation prescribed by the Minister by regulation, or” in the second, third and fourth lines. ^{s. 4 (d), amended}
- (2) Clause *g* of the said section 4 is amended by adding at the end thereof “and for the purpose of determining the time at which a transferor making a disposition described in this clause is first entitled to the exemption conferred by this clause, the expression ‘time of the disposition’ means the time when the person to whom the disposition is made is first entitled to call for delivery to him of a conveyance or transfer of the designated land disposed of or of some other document or evidence of title the agreement to give which was a disposition of the designated land, and no disposition of designated land that is exempt from tax by virtue of this clause shall be deemed to have occurred, for the purposes of this Act, until the time of the disposition, as defined in this clause”. ^{s. 4 (g), amended}
4. The said Act is amended by adding thereto the following section: ^{s. 4a, enacted}
- 4a. Notwithstanding clause *f* of section 4, the exemption conferred by that clause may be claimed by a transferor if, at the time he claims the exemption, the person to whom the designated land is disposed of, has furnished to the transferor claiming the exemption the affidavit described in subsection 3 of section 4 of *The Land Transfer Tax Act*, 1974 showing that such person is not a non-resident person as defined in that Act. ^{When exemption may be claimed}
5. Subsection 4 of section 8 of the said Act is repealed and the following substituted therefor: ^{s. 8 (4), re-enacted}
- (4) The Minister may assess or reassess any tax payable by any person under this Act within four years from the day ^{Assessment from time to time}

such tax became payable except that, where the Minister establishes that any person liable to tax has made any misrepresentation that is attributable to neglect, carelessness or wilful default or has committed any fraud in making any affidavits or applications or in supplying any information under this Act or in omitting to disclose any information, then the Minister may assess or reassess tax imposed by this Act at any time he considers reasonable.

s. 20 (2),
amended

- 6.—(1) Subsection 2 of section 20 of the said Act, as re-enacted by the Statutes of Ontario, 1974, chapter 121, section 5, is amended by striking out “one-tenth thereof for each full twelve-month period up to a maximum of ten such periods” in the fourth, fifth and sixth lines and inserting in lieu thereof “ $1\frac{2}{3}$ per cent of such taxable value for each full month up to a maximum of sixty full months”.

s. 20 (3),
amended

- (2) Subsection 3 of the said section 20, as enacted by the Statutes of Ontario, 1974, chapter 121, section 5, is amended,

(a) by striking out “one-tenth thereof for each full twelve-month period up to a maximum of ten such periods” in the seventh, eighth and ninth lines and inserting in lieu thereof “five-sixths of one per cent of such taxable value for each full month up to a maximum of 120 full months”; and

(b) by adding at the end thereof “provided that, where such uninterrupted period of time is less than 120 full months, the transferor may, in computing the reduction in taxable value authorized by this subsection, add to such uninterrupted period of time the number of full months prior to such uninterrupted period of time that does not increase such uninterrupted period of time beyond 120 full months and during which either the transferor or his spouse carried on farming on the designated land”.

s. 22a (2),
amended

7. Subsection 2 of section 22a of the said Act, as enacted by the Statutes of Ontario, 1974, chapter 121, section 7, is amended by striking out “shall” in the fifth line and inserting in lieu thereof “may”.

Commence-
ment

8. This Act shall be deemed to have come into force on the 20th day of April, 1977.

Short title

9. The short title of this Act is *The Land Speculation Tax Amendment Act, 1977*.

SECTION 6.—Subsection 1. This amendment reduces the period from ten to five years during which a property must be held as an investment property in order to qualify for exemption from tax and provides for the apportionment of the investment property tax reduction on a monthly basis rather than on an annual basis.

Subsection 2. This amendment provides for the apportionment of the farm property tax reduction on a monthly basis rather than on an annual basis, and in addition enables a transferor to include in the period for which he can claim a farm property reduction any months in which he or his spouse farmed the designated land. Thus, if the transferor or his spouse have ceased farming (because of age, ill health or some other reason) before the sale of the farm, the farm property reduction can still be claimed for any month in which the transferor or his spouse farmed the land prior to their ceasing to farm it.

SECTION 7. This amendment makes the use of the eligible disposition section permissive rather than mandatory.

BILL 14

An Act to amend
The Land Speculation Tax Act, 1974

1st Reading

June 27th, 1977

2nd Reading

3rd Reading

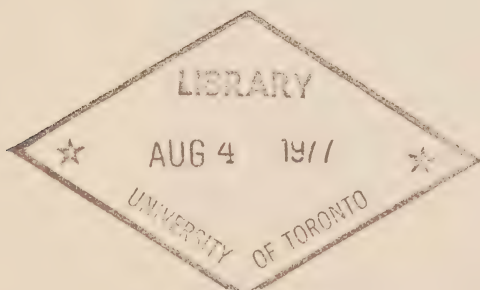
THE HON. M. SCRIVENER
Minister of Revenue

(Government Bill)

1ST SESSION, 31ST LEGISLATURE, ONTARIO
26 ELIZABETH II, 1977

An Act to amend The Land Speculation Tax Act, 1974

THE HON. MARGARET SCRIVENER
Minister of Revenue



An Act to amend The Land Speculation Tax Act, 1974

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

- 1.—(1) Sub-subclause A of subclause i of clause *a* of subsection 1 of section 1 of *The Land Speculation Tax Act, 1974*, being chapter 17, as amended by the Statutes of Ontario, 1974, chapter 121, section 1, is further amended by inserting after “BB,” in the amendment of 1974 “BC,” s. 1 (1) (a)
(i) (A),
amended
- (2) Subclause i of clause *a* of subsection 1 of the said section 1 is amended by adding thereto the following sub-subclause: s. 1 (1) (a) (i),
amended
 - (BC) as the result of his reacquisition otherwise than by a disposition described in subclause iii of clause *d*, of the rights under a lease or similar arrangement that, when originally granted or effected, was a disposition by him within the meaning of subclause iii of clause *d*, that amount that was determined to be the proceeds of disposition in accordance with subclause iv of clause *l* with respect to such original disposition by him.
- (3) Sub-subclause C of subclause i of clause *a* of subsection 1 of the said section 1, as amended by the Statutes of Ontario, 1974, chapter 121, section 1, is further amended by inserting after “BB” in the amendment of 1974 “, BC”. s. 1 (1) (a)
(i) (C),
amended
- (4) Subclause ii of clause *a* of subsection 1 of the said section 1, as amended by the Statutes of Ontario, 1974, chapter 121, section 1, is repealed and the following substituted therefor: s. 1 (1) (a) (ii),
re-enacted

- (ii) where the designated land was acquired by the transferor on or before the 9th day of April, 1974, the higher of either the fair market value of the designated land ascertained as at the 9th day of April, 1974, or the sum of the cost to the transferor of the acquisition of the designated land and the cost of improvements made by him on or before the 9th day of April, 1974.

s. 1,
amended

- (5) The said section 1 is further amended by adding thereto the following subsections:

Disposition
of reversion

(13) Where the transferor is disposing of the fee simple in designated land that is, at the time of such disposition, subject to a lease or other similar arrangement that was originally granted or effected by him, he may, in lieu of the amount required by subclause i or ii of clause *a* of subsection 1 to be added to the adjusted value applicable to such disposition, add an amount equal to either,

- (a) the fair market value of the whole interest in the designated land, ascertained as of the 9th day of April, 1974, if such lease or similar arrangement was granted or effected on or before that date; or
- (b) an amount equal to the fair market value of the whole interest in the designated land at the date of the disposition made by him after the 9th day of April, 1974 by which such lease or similar arrangement was granted or effected and the proceeds of which were required to be determined in accordance with subclause iv of clause *l* of subsection 1.

Proceeds of
disposition
deemed not
to have
arisen

(14) Sub-subclause B of subclause i of clause *a* of subsection 1 as it appears on the day this subsection comes into force shall be deemed to have been in force on and after the 9th day of April, 1974 and with respect to the death of any person on or after that date resulting in a disposition described in subclause iv of clause *d* of subsection 1, no proceeds of disposition shall be deemed to have arisen.

s. 2 (2),
re-enacted

- 2. Subsection 2 of section 2 of the said Act is repealed and the following substituted therefor:

Idem

(2) Where there is a disposition within the meaning of subclause vi or vii of clause *d* of subsection 1 of section 1 of any designated land that is not unrestricted land, as defined in *The Land Transfer Tax Act, 1974* and the result of the

1974, c. 8

disposition is that control of the corporation beneficially interested in the designated land is exercisable by a person or a group of persons different from those by whom control of the corporation was exercisable before the disposition, there shall be imposed and levied, for the uses of Her Majesty in right of Ontario, upon the designated land a tax, in addition to the tax imposed by subsection 1, calculated on the proceeds of disposition of the designated land that is not unrestricted land, as defined in *The Land Transfer Tax Act*, 1974, c. 8, 1974 and computed at the rate of 20 per cent of such proceeds of disposition where the corporation beneficially interested in the designated land is, immediately after the disposition has occurred, a non-resident corporation as defined in *The Land Transfer Tax Act*, 1974.

3.—(1) Clause *d* of section 4 of the said Act is amended by striking out “as a tourist resort of a class, kind or designation prescribed by the Minister by regulation, or” in the second, third and fourth lines. s. 4 (d),
amended

(2) Clause *g* of the said section 4 is amended by adding at the end thereof “and for the purpose of determining the time at which a transferor making a disposition described in this clause is first entitled to the exemption conferred by this clause, the expression ‘time of the disposition’ means the time when the person to whom the disposition is made is first entitled to call for delivery to him of a conveyance or transfer of the designated land disposed of or of some other document or evidence of title the agreement to give which was a disposition of the designated land, and no disposition of designated land that is exempt from tax by virtue of this clause shall be deemed to have occurred, for the purposes of this Act, until the time of the disposition, as defined in this clause”. s. 4 (g),
amended

4. The said Act is amended by adding thereto the following section: s. 4a,
enacted

4a. Notwithstanding clause *f* of section 4, the exemption conferred by that clause may be claimed by a transferor if, at the time he claims the exemption, the person to whom the designated land is disposed of, has furnished to the transferor claiming the exemption the affidavit described in subsection 3 of section 4 of *The Land Transfer Tax Act*, 1974 showing that such person is not a non-resident person as defined in that Act. When
exemption
may be
claimed

5. Subsection 4 of section 8 of the said Act is repealed and the following substituted therefor: s. 8 (4),
re-enacted

(4) The Minister may assess or reassess any tax payable by any person under this Act within four years from the day Assessment
from time
to time

such tax became payable except that, where the Minister establishes that any person liable to tax has made any misrepresentation that is attributable to neglect, carelessness or wilful default or has committed any fraud in making any affidavits or applications or in supplying any information under this Act or in omitting to disclose any information, then the Minister may assess or reassess tax imposed by this Act at any time he considers reasonable.

s. 20 (2),
amended

- 6.—(1) Subsection 2 of section 20 of the said Act, as re-enacted by the Statutes of Ontario, 1974, chapter 121, section 5, is amended by striking out “one-tenth thereof for each full twelve-month period up to a maximum of ten such periods” in the fourth, fifth and sixth lines and inserting in lieu thereof “ $1\frac{2}{3}$ per cent of such taxable value for each full month up to a maximum of sixty full months”.

s. 20 (3),
amended

- (2) Subsection 3 of the said section 20, as enacted by the Statutes of Ontario, 1974, chapter 121, section 5, is amended,

(a) by striking out “one-tenth thereof for each full twelve-month period up to a maximum of ten such periods” in the seventh, eighth and ninth lines and inserting in lieu thereof “five-sixths of one per cent of such taxable value for each full month up to a maximum of 120 full months”; and

(b) by adding at the end thereof “provided that, where such uninterrupted period of time is less than 120 full months, the transferor may, in computing the reduction in taxable value authorized by this subsection, add to such uninterrupted period of time the number of full months prior to such uninterrupted period of time that does not increase such uninterrupted period of time beyond 120 full months and during which either the transferor or his spouse carried on farming on the designated land”.

s. 22a (2),
amended

7. Subsection 2 of section 22a of the said Act, as enacted by the Statutes of Ontario, 1974, chapter 121, section 7, is amended by striking out “shall” in the fifth line and inserting in lieu thereof “may”.

Commence-
ment

8. This Act shall be deemed to have come into force on the 20th day of April, 1977.

Short title

9. The short title of this Act is *The Land Speculation Tax Amendment Act, 1977*.

An Act to amend
The Land Speculation Tax Act, 1974

1st Reading

June 27th, 1977

2nd Reading

July 6th, 1977

3rd Reading

July 6th, 1977

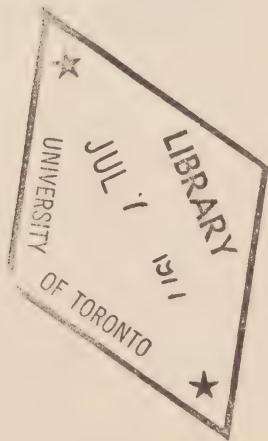
THE HON. MARGARET SCRIVENER
Minister of Revenue

1ST SESSION, 31ST LEGISLATURE, ONTARIO
26 ELIZABETH II, 1977

Government
Publications

An Act to amend The Corporations Tax Act, 1972

THE HON. M. SCRIVENER
Minister of Revenue



TORONTO

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EXPLANATORY NOTES

SECTION 1. This section adds clause *x* to subsection 1 of section 24 of the Act to permit the deduction from the income of oil and gas corporations of a resource allowance in respect of their oil and gas wells and oil sands operations.

SECTION 2. This section re-enacts subsections 1 and 2 of section 62 of the Act in order to allow the depletion allowance in respect of oil and gas corporations to be adjusted as a result of the resource allowance provided by the amendment to section 24 of the Act. Also the rate of depletion allowance will be stated in the regulations rather than in the Act. This amendment is complementary to the amendment in section 1.

BILL 15

1977

An Act to amend The Corporations Tax Act, 1972

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Subsection 1 of section 24 of *The Corporations Tax Act, 1972*, ^{s. 24 (1), amended} being chapter 143, as amended by the Statutes of Ontario, 1973, chapter 157, section 5, 1974, chapter 75, section 3, 1975, chapter 17, section 8 and 1976, chapter 32, section 4, is further amended by adding thereto the following clause:

(x) such amount as is allowed to the corporation by ^{Resource allowance} regulation in respect of oil or gas resources in Canada, as defined by regulation.

2. Subsections 1 and 2 of section 62 of the said Act, as re-enacted ^{s. 62 (1, 2), re-enacted} by the Statutes of Ontario, 1974, chapter 75, section 4, are repealed and the following substituted therefor:

(1) Except as otherwise provided in this section, there ^{Allowance for oil or gas well, mine or timber limit} may be deducted in computing a corporation's income for a fiscal year such amount as an allowance, if any, in respect of,

(a) an oil or gas well, mineral resource or timber limit; or

(b) the processing, to the prime metal stage or its equivalent, of ore from a mineral resource,

as is allowed by regulation.

(2) For greater certainty, it is hereby declared that, in ^{Regulations} the case of a regulation made under subsection 1,

(a) there may be prescribed by such regulation an amount in respect of any or all,

(i) oil or gas wells or mineral resources in which the corporation has an interest, or

(ii) processing operations described in clause *b* of subsection 1 that are carried on by the corporation; and

(*b*) notwithstanding any other provision in this Act, the Lieutenant Governor in Council may prescribe the formula by which the amount that may be allowed to the corporation by such regulation shall be determined.

s. 126 (2) (*b*),
re-enacted

3. Clause *b* of subsection 2 of section 126 of the said Act, as enacted by the Statutes of Ontario, 1973, chapter 42, section 11, is repealed and the following substituted therefor:

(*b*) its rest account and all its reserves, whether created from income or otherwise, except any reserve the creation of which is allowed as a charge against income under the provisions of Part II; and

ss. 131, 132,
re-enacted

4. Sections 131 and 132 of the said Act, as re-enacted by the Statutes of Ontario, 1973, chapter 42, sections 14 and 15, respectively, are repealed and the following substituted therefor:

Rate of
capital tax
on non-
banking
corporations

131.—(1) Except as provided in subsection 2, the tax payable under this Part by a corporation for a fiscal year calculated upon its taxable paid-up capital or taxable paid-up capital employed in Canada, as the case may be, in this subsection referred to as the "amount taxable", is three-tenths of 1 per cent of the amount taxable.

Rate of
capital tax
on banks

(2) The tax payable under this Part by a bank for a fiscal year calculated upon its taxable paid-up capital, in this subsection referred to as the "amount taxable", is three-fifths of 1 per cent of the amount taxable.

Deductions
from tax on
paid-up
capital

132.—(1) Except as provided in subsection 2, there may be deducted from the tax otherwise payable under this Part by a corporation for a fiscal year an amount equal to three-tenths of 1 per cent of that portion of the taxable paid-up capital or taxable paid-up capital employed in Canada, as the case may be, that is deemed to be used by the corporation in the fiscal year in each jurisdiction outside Ontario determined under rules prescribed by the regulations.

SECTION 3. This section re-enacts clause *b* of subsection 2 of section 126 of the Act to clarify the amount in respect of reserves that is to be included in the taxable paid-up capital of corporations that carry on the business of banking.

SECTION 4. This section re-enacts section 131 of the Act to increase by 50 per cent the rate of tax on taxable paid-up capital. For corporations other than banking corporations, the rate is increased to three-tenths of 1 per cent (previously one-fifth of 1 per cent), and for banking corporations the rate is increased to three-fifths of 1 per cent (previously two-fifths of 1 per cent).

The re-enactment of section 132 is complementary to the amendment to section 131.

SECTION 5. This section enacts a new section 133*a* of the Act to provide a flat rate of tax on the taxable paid-up capital, in the amount of \$50 where the taxable paid-up capital used in Ontario does not exceed \$50,000, and \$100 where the taxable paid-up capital used in Ontario exceeds \$50,000 but does not exceed \$100,000.

SECTION 6. This section re-enacts section 136 of the Act to make it clear that the apportionment allowed under that section does not apply to the \$50 minimum tax provided under section 133 of the Act.

(2) There may be deducted from the tax otherwise ^{Idem} payable under this Part by a bank for a fiscal year an amount equal to three-fifths of 1 per cent of that portion of its taxable paid-up capital, that is deemed to be used by the bank in the fiscal year in each jurisdiction outside Ontario determined under rules prescribed by the regulations.

5. The said Act is amended by adding thereto the following ^{s. 133a, enacted} section:

133a.—(1) Notwithstanding sections 131 and 132 and ^{Flat rate tax} except as provided in subsections 1 and 2 of section 135, the tax payable under this Part shall be,

- (a) \$50, where the taxable paid-up capital used in Ontario does not exceed \$50,000; or
- (b) \$100, where the taxable paid-up capital used in Ontario exceeds \$50,000 but does not exceed \$100,000.

(2) For the purposes of subsection 1, “taxable paid-up capital used in Ontario” means the taxable paid-up capital, or taxable paid-up capital employed in Canada, as the case may be, less that portion thereof that is deemed to be used by the corporation in the fiscal year in a jurisdiction outside Ontario determined under rules prescribed by the regulations. ^{Interpretation}

6. Section 136 of the said Act is repealed and the following ^{s. 136, re-enacted} substituted therefor:

136. Subject to section 133, where a corporation has a ^{Apportionment of capital tax} fiscal year of less than 365 days, the tax otherwise payable by it under this Part shall be in the proportion thereof that the number of days of such fiscal year bears to 365, except that this section does not apply,

- (a) to any corporation to which section 135 applies; or
- (b) to any corporation the fiscal year of which does not end on the same date each year, but that has been accepted for purposes of assessment under this Act.

- 7.—(1) This Act, except sections 4 and 5, comes into force on the day it receives Royal Assent. ^{Commencement and application}

- (2) Section 4 shall be deemed to have come into force on ^{Idem} the 20th day of April, 1977 and applies to corporations

in respect of all fiscal years ending after the 19th day of April, 1977, except that in determining the tax payable under Part III of the said Act, as amended by this Act, by a corporation in respect of which section 133a of the said Act is not applicable, for a fiscal year that ends after the 19th day of April, 1977 and that includes that day, the following rules apply,

- (a) determine the tax under Part III of the said Act, as amended by this Act that, but for the rules made applicable by this section, would be payable by the corporation for a fiscal year that ends after the 19th day of April, 1977 and that includes that day;
- (b) determine the proportion of the amount determined under clause *a* that the number of days of the fiscal year that follow the 19th day of April, 1977 bears to the total number of days of that fiscal year;
- (c) determine the tax that, but for the rules made applicable by this section, would be payable for the fiscal year that ends after the 19th day of April, 1977, and that includes that day, under Part III of the said Act, as that Part stood prior to the 20th day of April, 1977, and on the assumption that that Part was applicable to that fiscal year;
- (d) determine the proportion of the amount determined under clause *c* that the number of days of the fiscal year prior to the 20th day of April, 1977 bears to the total number of days of that fiscal year;
- (e) determine the aggregate of the amounts determined under clauses *b* and *d* in respect of the corporation,

and the aggregate determined under clause *e* is the tax under Part III of the said Act, as amended by this Act, that is payable by the corporation for its fiscal year that ends after the 19th day of April, 1977 and that includes that day.

Idem

- (3) Section 5 shall be deemed to have come into force on the 20th day of April, 1977 and applies to corporations in respect of all fiscal years that end after the 19th day of April, 1977.

Short title

- 8. The short title of this Act is *The Corporations Tax Amendment Act, 1977*.

An Act to amend
The Corporations Tax Act, 1972

1st Reading

June 27th, 1977

2nd Reading

3rd Reading

THE HON. M. SCRIVENER
Minister of Revenue

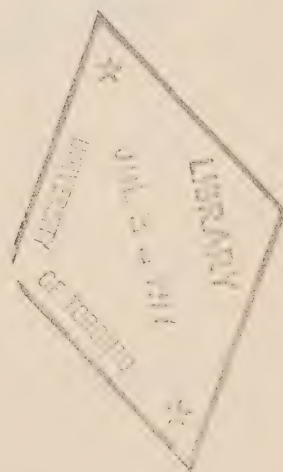
(Government Bill)

BILL 15

1ST SESSION, 31ST LEGISLATURE, ONTARIO
26 ELIZABETH II, 1977

An Act to amend The Corporations Tax Act, 1972

THE HON. MARGARET SCRIVENER
Minister of Revenue



BILL 15

1977

An Act to amend The Corporations Tax Act, 1972

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Subsection 1 of section 24 of *The Corporations Tax Act, 1972*, s. 24 (1),
being chapter 143, as amended by the Statutes of Ontario,
1973, chapter 157, section 5, 1974, chapter 75, section 3,
1975, chapter 17, section 8 and 1976, chapter 32, section 4,
is further amended by adding thereto the following clause:

(x) such amount as is allowed to the corporation by regulation in respect of oil or gas resources in Canada, as defined by regulation. ^{Resource allowance}

2. Subsections 1 and 2 of section 62 of the said Act, as re-enacted s. 62 (1, 2),
by the Statutes of Ontario, 1974, chapter 75, section 4, are
repealed and the following substituted therefor: ^{re-enacted}

(1) Except as otherwise provided in this section, there may be deducted in computing a corporation's income for a fiscal year such amount as an allowance, if any, in respect of, ^{Allowance for oil or gas well, mine or timber limit}

(a) an oil or gas well, mineral resource or timber limit; or

(b) the processing, to the prime metal stage or its equivalent, of ore from a mineral resource,

as is allowed by regulation.

(2) For greater certainty, it is hereby declared that, in the case of a regulation made under subsection 1, ^{Regulations}

(a) there may be prescribed by such regulation an amount in respect of any or all,

(i) oil or gas wells or mineral resources in which the corporation has an interest, or

(ii) processing operations described in clause *b* of subsection 1 that are carried on by the corporation; and

(*b*) notwithstanding any other provision in this Act, the Lieutenant Governor in Council may prescribe the formula by which the amount that may be allowed to the corporation by such regulation shall be determined.

s. 126 (2) (*b*),
re-enacted

3. Clause *b* of subsection 2 of section 126 of the said Act, as enacted by the Statutes of Ontario, 1973, chapter 42, section 11, is repealed and the following substituted therefor:

(*b*) its rest account and all its reserves, whether created from income or otherwise, except any reserve the creation of which is allowed as a charge against income under the provisions of Part II; and

ss. 131, 132,
re-enacted

4. Sections 131 and 132 of the said Act, as re-enacted by the Statutes of Ontario, 1973, chapter 42, sections 14 and 15, respectively, are repealed and the following substituted therefor:

Rate of
capital tax
on non-
banking
corporations

131.—(1) Except as provided in subsection 2, the tax payable under this Part by a corporation for a fiscal year calculated upon its taxable paid-up capital or taxable paid-up capital employed in Canada, as the case may be, in this subsection referred to as the "amount taxable", is three-tenths of 1 per cent of the amount taxable.

Rate of
capital tax
on banks

(2) The tax payable under this Part by a bank for a fiscal year calculated upon its taxable paid-up capital, in this subsection referred to as the "amount taxable", is three-fifths of 1 per cent of the amount taxable.

Deductions
from tax on
paid-up
capital

132.—(1) Except as provided in subsection 2, there may be deducted from the tax otherwise payable under this Part by a corporation for a fiscal year an amount equal to three-tenths of 1 per cent of that portion of the taxable paid-up capital or taxable paid-up capital employed in Canada, as the case may be, that is deemed to be used by the corporation in the fiscal year in each jurisdiction outside Ontario determined under rules prescribed by the regulations.

(2) There may be deducted from the tax otherwise ^{Idem} payable under this Part by a bank for a fiscal year an amount equal to three-fifths of 1 per cent of that portion of its taxable paid-up capital, that is deemed to be used by the bank in the fiscal year in each jurisdiction outside Ontario determined under rules prescribed by the regulations.

5. The said Act is amended by adding thereto the following ^{s. 133a, enacted} section:

133a.—(1) Notwithstanding sections 131 and 132 and ^{Flat rate tax} except as provided in subsections 1 and 2 of section 135, the tax payable under this Part shall be,

(a) \$50, where the taxable paid-up capital used in Ontario does not exceed \$50,000; or

(b) \$100, where the taxable paid-up capital used in Ontario exceeds \$50,000 but does not exceed \$100,000.

(2) For the purposes of subsection 1, “taxable paid-up capital used in Ontario” means the taxable paid-up capital, or taxable paid-up capital employed in Canada, as the case may be, less that portion thereof that is deemed to be used by the corporation in the fiscal year in a jurisdiction outside Ontario determined under rules prescribed by the regulations. ^{Interpretation}

6. Section 136 of the said Act is repealed and the following ^{s. 136, re-enacted} substituted therefor:

136. Subject to section 133, where a corporation has a ^{Apportionment of capital tax} fiscal year of less than 365 days, the tax otherwise payable by it under this Part shall be in the proportion thereof that the number of days of such fiscal year bears to 365, except that this section does not apply,

(a) to any corporation to which section 135 applies; or

(b) to any corporation the fiscal year of which does not end on the same date each year, but that has been accepted for purposes of assessment under this Act.

- 7.—(1) This Act, except sections 4 and 5, comes into force on the day it receives Royal Assent. ^{Commencement and application}

(2) Section 4 shall be deemed to have come into force on ^{Idem} the 20th day of April, 1977 and applies to corporations

in respect of all fiscal years ending after the 19th day of April, 1977, except that in determining the tax payable under Part III of the said Act, as amended by this Act, by a corporation in respect of which section 133a of the said Act is not applicable, for a fiscal year that ends after the 19th day of April, 1977 and that includes that day, the following rules apply,

- (a) determine the tax under Part III of the said Act, as amended by this Act that, but for the rules made applicable by this section, would be payable by the corporation for a fiscal year that ends after the 19th day of April, 1977 and that includes that day;
- (b) determine the proportion of the amount determined under clause *a* that the number of days of the fiscal year that follow the 19th day of April, 1977 bears to the total number of days of that fiscal year;
- (c) determine the tax that, but for the rules made applicable by this section, would be payable for the fiscal year that ends after the 19th day of April, 1977, and that includes that day, under Part III of the said Act, as that Part stood prior to the 20th day of April, 1977, and on the assumption that that Part was applicable to that fiscal year;
- (d) determine the proportion of the amount determined under clause *c* that the number of days of the fiscal year prior to the 20th day of April, 1977 bears to the total number of days of that fiscal year;
- (e) determine the aggregate of the amounts determined under clauses *b* and *d* in respect of the corporation,

and the aggregate determined under clause *e* is the tax under Part III of the said Act, as amended by this Act, that is payable by the corporation for its fiscal year that ends after the 19th day of April, 1977 and that includes that day.

Idem

- (3) Section 5 shall be deemed to have come into force on the 20th day of April, 1977 and applies to corporations in respect of all fiscal years that end after the 19th day of April, 1977.

Short title

- 8. The short title of this Act is *The Corporations Tax Amendment Act, 1977*.

An Act to amend
The Corporations Tax Act, 1972

1st Reading

June 27th, 1977

2nd Reading

July 6th, 1977

3rd Reading

July 6th, 1977

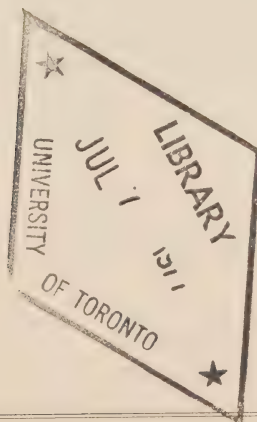
THE HON. MARGARET SCRIVENER
Minister of Revenue

1ST SESSION, 31ST LEGISLATURE, ONTARIO
26 ELIZABETH II, 1977

Government
Printed

An Act to amend The Gift Tax Act, 1972

THE HON. M. SCRIVENER
Minister of Revenue



TORONTO

PRINTED BY J. C. THATCHER, QUEEN'S PRINTER FOR ONTARIO

EXPLANATORY NOTES

This Bill implements the proposal in the Treasurer's Budget to increase from \$5,000 to \$10,000 the exemption for gifts to individuals and to increase from \$25,000 to \$50,000 the aggregate amount of such gifts for which exemption may be claimed in a year.

SECTION 1. The amendment clarifies the wording of section 6 so that promissory notes for non-arm's length transactions will be discounted only when the rate of interest provided for in that note is less than the rate prescribed by regulation, now 5 per cent per annum. The provision to be repealed reads as follows:

- 6. For the purposes of this Act, where an individual makes a loan to, or disposes of property to, a person with whom he is not dealing at arm's length in consideration of a promise or covenant to pay money, with or without interest, at a time in the future, the value of the promise or covenant to pay shall be discounted at a rate of interest prescribed in the regulations.*

SECTION 2. The amendment will enable a donor to give to his spouse gifts exempt from tax by way of a trust or settlement. The Act presently denies exemption where a gift is made to a spouse by way of the creation of a settlement or the transfer of property to a trust. The exemption proposed in the amendment applies only to the value of the interest given to the spouse and only if the trust or settlement is in writing, is irrevocable, provides that all of the income earned by the trust during the lifetime of the spouse will belong to the spouse, and does not create interests in the property given in favour of unborn persons or persons whose interest is not absolutely vested in them. The value of any interest given to the beneficiary of a trust, other than the donor's spouse, will be liable to tax.

BILL 16

1977

An Act to amend The Gift Tax Act, 1972

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Section 6 of *The Gift Tax Act, 1972*, being chapter 12, is ^{s. 6,} repealed and the following substituted therefor: ^{re-enacted}

6. For the purposes of this Act, where an individual makes a loan to, or disposes of property to, a person with whom he is not dealing at arm's length in consideration of a promise or covenant to pay money at a time in the future, at a rate of interest less than the rate of interest prescribed in the regulations, the value of the promise or covenant to pay shall be discounted at a rate of interest prescribed in the regulations. ^{Promises to pay as consideration}

2. Subsection 1 of section 10 of the said Act, as amended by the ^{s. 10 (1),} Statutes of Ontario, 1973, chapter 165, section 2, 1975, chapter 15, section 1 and 1976, chapter 11, section 1, is further amended ^{amended} by adding thereto the following clause:

(ga) the value of any beneficial interest given by a donor to his spouse by way of a gift made by the creation of a settlement or the transfer of property to a trust, if such settlement or trust,

- (i) is made in writing,
- (ii) contains no provision by which any part of the settlement or trust can be revoked, altered or amended in any way by any person,
- (iii) provides that, during the lifetime of the donor's spouse, all property or benefits received by the trustee or trustees as income of, or determined by the trustee or trustees

to be income of, such settlement or trust shall be held for or paid to only the donor's spouse or such spouse's executors or administrators,

- (iv) immediately, absolutely and indefeasibly vests the whole beneficial interest given by the donor only in persons who are alive at the time of the gift and whose interest in such settlement or trust cannot thereafter be divested by the occurrence of any event provided for in such settlement or trust, and
- (v) contains and is subject to no discretion exercisable by any person for or in favour of any object or person other than the donor's spouse.

s. 11 (1),
amended

- 3.—(1) Subsection 1 of section 11 of the said Act, as amended by the Statutes of Ontario, 1973, chapter 165, section 3, and 1975, chapter 15, section 2, is further amended by striking out "five" in the eighth line, as inserted by the amendment of 1975, and inserting in lieu thereof "ten" and by striking out "\$25,000" in the fourteenth line, as inserted by the amendment of 1975, and inserting in lieu thereof "\$50,000".

s. 11,
amended

- (2) The said section 11 is amended by adding thereto the following subsection:

Computation
of taxable
value of
gift

- (3) In computing the taxable value of a gift with respect to any part of which exemption is conferred by clause *ga* of section 10, that part of the value of the property given and to which exemption under clause *ga* of section 10 does not extend shall be determined without regard to the effect thereon of any discretion that is contained in the settlement or trust described in clause *ga* of section 10 or that may otherwise be exercised to make payments out of the property that is subject to such settlement or trust or to alter the interest of any person in such settlement or trust.

s. 18 (1) (b),
re-enacted

4. Clause *b* of subsection 1 of section 18 of the said Act, as re-enacted by the Statutes of Ontario, 1975, chapter 15, section 3, is repealed and the following substituted therefor:

- (b) a gift made to an individual having a value of not more than \$10,000 if the aggregate value of gifts made to individuals by the donor in the year does not exceed \$50,000,

SECTION 3.—Subsection 1. The amendment increases from \$5,000 to \$10,000 the exemption for gifts to individuals otherwise than by way of trust, and increases from \$25,000 to \$50,000 the aggregate amount of the exemption for such gifts in any one year.

Subsection 1 of section 11 of the Act presently reads as follows:

(1) In computing the taxable value of a gift, except a gift made by the creation of a settlement or the transfer of property to a trust, made by a donor in a year to a donee who is an individual, there may be deducted in the case of gifts made to persons, other than the spouse of the donor, the lesser of,

(a) the value of the gift; or

(b) the amount, if any, by which five thousand dollars exceeds the value of all other gifts, except gifts that are exempt from tax under this Act and gifts made by the creation of a settlement or the transfer of property to a trust, made by the donor to the donee in the year and before the time when the gift was made,

but in any year not more than an aggregate of \$25,000 may be deducted under this section from the value of gifts made by the donor in that year.

Subsection 2. The amendment provides for the valuation of an interest other than the interest of the donor's spouse in a trust in which the interest of the donor's spouse is exempt under the amendment proposed in section 2 of this Bill.

SECTION 4. The amendment is consequential on amendments made in section 3 of the Bill. The repealed clause *b* reads:

(b) a gift made to an individual having a value of not more than \$5,000 if the aggregate value of gifts made to individuals by the donor in the year does not exceed \$25,000,

SECTION 5.—Subsection 1. The amendments proposed are consequential on the increased exemptions proposed in section 3 of the Bill.

Subsection 6 of section 34 of the Act presently reads as follows:

- (6) *Where, for the purposes of calculating the taxable value of gifts made by a donor in a year, the donor has or is entitled, by virtue of subsection 1 of section 11, to deduct an aggregate of \$25,000, in determining the taxable value of a gift of the class described in subsection 1 of section 11 for the purpose of calculating the liability of the donee of the gift under subsection 1,*
- (a) *the \$25,000 deduction minus any deduction mentioned therein, shall be apportioned pro rata among the donees of gifts of the class described in subsection 1 of section 11 made by the donor in that year on the basis of the total value of those gifts made to each donee except that not more than \$5,000 shall be apportioned to the gifts made to any one donee under this clause; and*
- (b) *the taxable value of those gifts received by each donee shall be determined as the value of the gifts less the portion of the deduction apportioned to that donee.*

Subsection 2. The subsection proposed to be added by the amendment will make the property in Ontario of those who receive gifts from a donor in Ontario but are not resident in Ontario liable to tax if the donor, on whom the primary liability for tax is imposed by the Act, does not pay the tax. The previous six subsections of section 34 impose a secondary liability for tax personally upon donees who are resident in Ontario at the time a gift is made to them. The new subsection, within the limits constitutionally imposed on the Province, extends the liability with respect to donees resident outside the Province, but the liability arises only where such donees have property within the Province.

SECTION 6. The re-enactment of subsection 1 of section 47 extends the lien now conferred by that subsection to real property in Ontario that belongs to a donee who is not resident in Ontario and whose property is, by the amendment proposed in section 5 (2) of this Bill, made liable to tax that the donor fails to pay. In addition, the wording of the proposed subsection has been changed to make it accord more precisely with the practice and procedure in Ontario. The new subsection 1a is intended to provide a method of realizing upon the lien created by subsection 1.

Section 47 (1) of the Act, before the amendments proposed here, reads as follows:

- (1) *Where tax, interest or penalties are payable by any person under this Act, the Minister may file or cause to be filed in the proper registry office or office of land titles, as the case may be, a certificate of lien in prescribed form against real property of which that person is the registered owner setting out a description of the real property and the amount of tax, interest and penalties owing by that person, and, upon the certificate being filed, the interest of that person in the land described therein is subject to a lien in favour of the Crown for the amount owing, subject to any other interests or encumbrances filed prior thereto, and the lien may be enforced in the same manner as a judgment of the Supreme Court in respect of which a certificate of judgment has been filed.*

- 5.—(1) Subsection 6 of section 34 of the said Act, as amended^{s. 34 (6), amended} by the Statutes of Ontario, 1975, chapter 15, section 4, is further amended by striking out “\$25,000” in the amendment of 1975 in the fourth line and in the amendment of 1975 in the eighth line and inserting in lieu thereof in each instance “\$50,000” and by striking out “\$5,000” in the amendment of 1975 in the thirteenth line and inserting in lieu thereof “\$10,000”.
- (2) The said section 34 is amended by adding thereto the^{s. 34, amended} following subsection:

(7) Notwithstanding subsection 1, where a donor fails to^{Non-resident donees} pay, as herein required, all or a portion of the tax payable by him on or in respect of gifts made by him in a year to a donee who is not a resident of Ontario at the time the gift was made, the property of such donee that is situate in Ontario at the time the gift was made, including any property in Ontario comprised in the gift to such donee, is liable for the payment to the Treasurer of Ontario of the same amount of tax as would be payable by the donee in accordance with this section if he were a resident of Ontario at the time the gift was made to him.

6. Subsection 1 of section 47 of the said Act is repealed and^{s. 47 (1), re-enacted} the following substituted therefor:

(1) Where tax, interest or penalties are payable by any^{Lien on real property} person under this Act, or where any property is liable for the payment of any tax, interest or penalties payable under this Act, the Minister may file or cause to be filed in the proper land registry office a certificate of lien in prescribed form against real property belonging to such person, or against any real property liable for the payment of any tax, interest or penalties payable under this Act, and setting out a description of the real property and the amount of tax, interest or penalties for which such person or property is liable, and upon the certificate's being filed, the real property described therein is, to the extent of the interest therein of any person liable to pay any tax, interest or penalties under this Act or whose property in Ontario is liable for the payment thereof, subject to a lien in favour of the Crown for the amount owing, and such lien has priority over all interests in such real property, except interests and encumbrances filed prior to the registration of the certificate and entitled to priority over the Crown.

(1a) Upon the filing of the certificate referred to in sub-section 1, the Minister may deliver to the sheriff of the county or district where the real property against which the certi-^{Enforcement of lien}

ificate has been filed is situated, a warrant of execution issued by or on behalf of the Minister for the amount claimed in the certificate, together with interest accruing thereon under this Act and the costs and expenses of the sheriff, and such warrant has the same force and effect as a writ of execution issued out of the Supreme Court on a judgment in favour of the Crown and shall entitle the Crown to payment in accordance with the priorities and preferences attaching to or resulting from the lien arising under subsection 1.

Commence-
ment

7.—(1) This Act, except sections 1 to 4 and subsection 1 of section 5, comes into force on the day it receives Royal Assent.

Idem

(2) Sections 1, 2, 3, 4 and subsection 1 of section 5 shall be deemed to have come into force on the 1st day of January, 1977.

Short title

8. The short title of this Act is *The Gift Tax Amendment Act, 1977*.

An Act to amend
The Gift Tax Act, 1972

1st Reading

June 27th, 1977

2nd Reading

3rd Reading

THE HON. M. SCRIVENER
Minister of Revenue

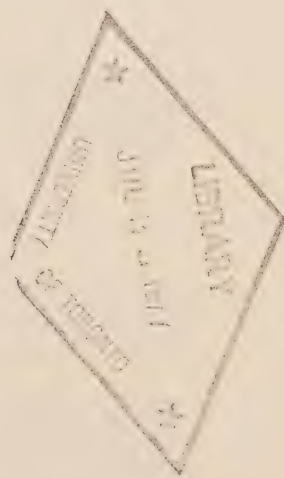
(Government Bill)

BILL 16

1ST SESSION, 31ST LEGISLATURE, ONTARIO
26 ELIZABETH II, 1977

An Act to amend The Gift Tax Act, 1972

THE HON. MARGARET SCRIVENER
Minister of Revenue



TORONTO

PRINTED BY J. C. THATCHER, QUEEN'S PRINTER FOR ONTARIO

BILL 16

1977

An Act to amend The Gift Tax Act, 1972

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Section 6 of *The Gift Tax Act, 1972*, being chapter 12, is ^{s. 6,} repealed and the following substituted therefor: ^{re-enacted}

6. For the purposes of this Act, where an individual makes a loan to, or disposes of property to, a person with whom he is not dealing at arm's length in consideration of a promise or covenant to pay money at a time in the future, at a rate of interest less than the rate of interest prescribed in the regulations, the value of the promise or covenant to pay shall be discounted at a rate of interest prescribed in the regulations. ^{Promises to pay as consideration}

2. Subsection 1 of section 10 of the said Act, as amended by the Statutes of Ontario, 1973, chapter 165, section 2, 1975, chapter 15, section 1 and 1976, chapter 11, section 1, is further amended by adding thereto the following clause: ^{s. 10 (1), amended}

(ga) the value of any beneficial interest given by a donor to his spouse by way of a gift made by the creation of a settlement or the transfer of property to a trust, if such settlement or trust,

- (i) is made in writing,
- (ii) contains no provision by which any part of the settlement or trust can be revoked, altered or amended in any way by any person,
- (iii) provides that, during the lifetime of the donor's spouse, all property or benefits received by the trustee or trustees as income of, or determined by the trustee or trustees

to be income of, such settlement or trust shall be held for or paid to only the donor's spouse or such spouse's executors or administrators,

- (iv) immediately, absolutely and indefeasibly vests the whole beneficial interest given by the donor only in persons who are alive at the time of the gift and whose interest in such settlement or trust cannot thereafter be divested by the occurrence of any event provided for in such settlement or trust, and
- (v) contains and is subject to no discretion exercisable by any person for or in favour of any object or person other than the donor's spouse.

s. 11 (1),
amended

- 3.—**(1) Subsection 1 of section 11 of the said Act, as amended by the Statutes of Ontario, 1973, chapter 165, section 3, and 1975, chapter 15, section 2, is further amended by striking out "five" in the eighth line, as inserted by the amendment of 1975, and inserting in lieu thereof "ten" and by striking out "\$25,000" in the fourteenth line, as inserted by the amendment of 1975, and inserting in lieu thereof "\$50,000".

s. 11,
amended

- (2) The said section 11 is amended by adding thereto the following subsection:

Computation
of taxable
value of
gift

- (3) In computing the taxable value of a gift with respect to any part of which exemption is conferred by clause *ga* of section 10, that part of the value of the property given and to which exemption under clause *ga* of section 10 does not extend shall be determined without regard to the effect thereon of any discretion that is contained in the settlement or trust described in clause *ga* of section 10 or that may otherwise be exercised to make payments out of the property that is subject to such settlement or trust or to alter the interest of any person in such settlement or trust.

s. 18 (1) (b),
re-enacted

- 4.** Clause *b* of subsection 1 of section 18 of the said Act, as re-enacted by the Statutes of Ontario, 1975, chapter 15, section 3, is repealed and the following substituted therefor:

- (b) a gift made to an individual having a value of not more than \$10,000 if the aggregate value of gifts made to individuals by the donor in the year does not exceed \$50,000,

5.—(1) Subsection 6 of section 34 of the said Act, as amended^{s. 34 (6), amended} by the Statutes of Ontario, 1975, chapter 15, section 4, is further amended by striking out “\$25,000” in the amendment of 1975 in the fourth line and in the amendment of 1975 in the eighth line and inserting in lieu thereof in each instance “\$50,000” and by striking out “\$5,000” in the amendment of 1975 in the thirteenth line and inserting in lieu thereof “\$10,000”.

(2) The said section 34 is amended by adding thereto the^{s. 34, amended} following subsection:

(7) Notwithstanding subsection 1, where a donor fails to^{Non-resident donees} pay, as herein required, all or a portion of the tax payable by him on or in respect of gifts made by him in a year to a donee who is not a resident of Ontario at the time the gift was made, the property of such donee that is situate in Ontario at the time the gift was made, including any property in Ontario comprised in the gift to such donee, is liable for the payment to the Treasurer of Ontario of the same amount of tax as would be payable by the donee in accordance with this section if he were a resident of Ontario at the time the gift was made to him.

6. Subsection 1 of section 47 of the said Act is repealed and^{s. 47 (1), re-enacted} the following substituted therefor:

(1) Where tax, interest or penalties are payable by any^{Lien on real property} person under this Act, or where any property is liable for the payment of any tax, interest or penalties payable under this Act, the Minister may file or cause to be filed in the proper land registry office a certificate of lien in prescribed form against real property belonging to such person, or against any real property liable for the payment of any tax, interest or penalties payable under this Act, and setting out a description of the real property and the amount of tax, interest or penalties for which such person or property is liable, and upon the certificate's being filed, the real property described therein is, to the extent of the interest therein of any person liable to pay any tax, interest or penalties under this Act or whose property in Ontario is liable for the payment thereof, subject to a lien in favour of the Crown for the amount owing, and such lien has priority over all interests in such real property, except interests and encumbrances filed prior to the registration of the certificate and entitled to priority over the Crown.

(1a) Upon the filing of the certificate referred to in sub-^{Enforcement of lien}section 1, the Minister may deliver to the sheriff of the county or district where the real property against which the certi-

ificate has been filed is situated, a warrant of execution issued by or on behalf of the Minister for the amount claimed in the certificate, together with interest accruing thereon under this Act and the costs and expenses of the sheriff, and such warrant has the same force and effect as a writ of execution issued out of the Supreme Court on a judgment in favour of the Crown and shall entitle the Crown to payment in accordance with the priorities and preferences attaching to or resulting from the lien arising under subsection 1.

Commence-
ment

7.—(1) This Act, except sections 1 to 4 and subsection 1 of section 5, comes into force on the day it receives Royal Assent.

Idem

(2) Sections 1, 2, 3, 4 and subsection 1 of section 5 shall be deemed to have come into force on the 1st day of January, 1977.

Short title

8. The short title of this Act is *The Gift Tax Amendment Act, 1977*.

An Act to amend
The Gift Tax Act, 1972

1st Reading

June 27th, 1977

2nd Reading

July 6th, 1977

3rd Reading

July 6th, 1977

THE HON. MARGARET SCRIVENER
Minister of Revenue

BILL 17

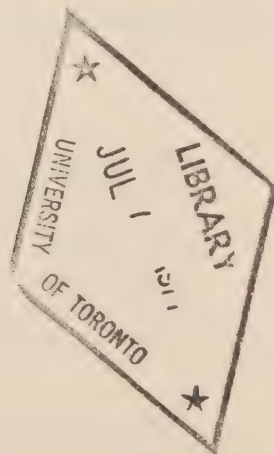
Government Bill

1ST SESSION, 31ST LEGISLATURE, ONTARIO
26 ELIZABETH II, 1977

Government
Publications

An Act to amend The Motor Vehicle Fuel Tax Act

THE HON. M. SCRIVENER
Minister of Revenue



TORONTO

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EXPLANATORY NOTES

GENERAL

The amendments proposed in this Bill are intended to implement the proposal in the Treasurer's Budget expanding the requirement for registration of those who deal in middle distillate petroleum fuels. The classes of registrant, and their duties, for the implementation of this proposal will be introduced by regulation, the power to make which is proposed as one of the amendments in this Bill. In addition, the Bill proposes many administrative amendments to the Act for the collection of tax and to facilitate the operation of the expanded system of registration.

SECTION 1. The amendment re-enacts section 2 of the Act, which deals with registrants, clarifies the requirements of registration presently in the Act, extends the section to deal with registration required by regulation, provides for hearings before refusal, suspension or cancellation of registration, and proposes a more effective penalty for contravention of the requirement to register.

BILL 17

1977

An Act to amend The Motor Vehicle Fuel Tax Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Section 2 of *The Motor Vehicle Fuel Tax Act*, being chapter 282 of the Revised Statutes of Ontario, 1970, as amended by the Statutes of Ontario, 1975, chapter 10, section 1, is repealed and the following substituted therefor:

2.—(1) Unless he is a registrant, no person shall supply fuel that is taxable or exempt from tax under this Act or the regulations to any person, except as authorized in writing by the Minister, and every person in the business of supplying fuel for any purpose shall register with the Minister as required by this section or the regulations. ^{Persons required to register}

(2) Unless he is a registrant or is specifically exempted by the regulations from the application of this subsection, no person shall receive fuel as a registrant. ^{Idem}

(3) Where the Minister is satisfied that the applicant for a registration certificate will be acquiring fuel principally, ^{Idem}

(a) for resale by the applicant;

(b) to be used by the applicant in a manner or for a purpose that will render such fuel exempt from tax by virtue of this Act or the regulations, or that will entitle the applicant to apply to the Minister for a full refund of the tax imposed by this Act on such fuel, and that the amount of fuel to be used by the applicant will generally exceed 75 gallons of fuel per month; or

(c) to be disposed of or consumed by the applicant in a manner prescribed by the regulations for the purpose of this subsection,

the Minister may issue a registration certificate to such applicant, and the certificate may be made subject to such conditions and restrictions as the Minister considers necessary to ensure that fuel acquired by the applicant through his use of the certificate will be dealt with by the applicant in accordance with clause *a*, *b* or *c*, as the case may be.

Idem

(4) Every person required to be a registrant under this section or the regulations shall, by such form and in such manner as the Minister requires, apply for registration, and subject to this Act and the regulations, a registration certificate shall be issued by the Minister, and every such certificate shall expire on the 31st day of March next following the date of its issue, is not transferable, and may be renewed annually if the registrant to whom it is issued is not in contravention of this Act or the regulations and continues to satisfy the conditions under which the certificate is issued.

Refusal to
issue and
cancellation

(5) The Minister may refuse to issue a registration certificate to any applicant, or may suspend or cancel any registration certificate, if the person to whom the certificate is issued, or if an applicant to whom a certificate has been issued, contravenes or has permitted the contravention of the provisions of this Act or the regulations or the conditions or restrictions upon which his certificate is or was issued, but, subject to subsection 6, before any refusal, suspension or cancellation is made, the applicant or registrant, as the case may be, shall be afforded an opportunity, at a hearing before the Minister or some person authorized by the Minister to hold the hearing, to show cause why the issue of a registration certificate should not be refused or why the registration certificate should not be suspended or cancelled, whichever is the case.

Idem

(6) Where a registrant has failed to remit the tax that he has collected under this Act or that is payable by him under this Act at the time and in the manner required by this Act or the regulations, the Minister may, by notice in writing to the registrant and without a hearing, suspend forthwith the registrant's certificate of registration, and the notice shall state the failure of the registrant for which his certificate is suspended and shall fix a day, not more than fifteen days after the date of the suspension, for a hearing before the Minister or some person authorized by him to hold the hearing to determine whether the registrant's suspension should be rescinded or continued and upon what conditions the suspension may be rescinded or continued.

Service of
notice

(7) The notice under subsection 6 and a notice of hearing under subsection 5 is properly served if served either by

SECTION 2. The amendment adds a subsection to provide that amounts paid in lieu of tax shall be treated as tax for the purposes of the Act.

SECTION 3. The reference to "a registrant" added by the amendment will avoid the technical commission of an offence under section 4 by a registrant who, by virtue of his being a registrant, may have fuel in his possession on which he is not required to pay tax under the Act and could not, therefore, as the section formerly stood, prove that tax had been paid.

SECTION 4. The amendments authorize the stopping of a motor vehicle. Without the amendment, section 4a only allows the detention of the vehicle, and the amendment will clarify that this includes the power to stop the vehicle as well as to detain it.

personal service or by registered mail sent to the last known address of the registrant or applicant, as the case may be.

(8) Every person who,

Offence

- (a) is required to become a registrant by this section or by the regulations and who fails to do so;
- (b) being a registrant, contravenes this Act or the regulations or any condition or restriction contained in his certificate of registration issued under this Act or the regulations; or
- (c) not being a registrant, supplies, disposes of, consumes or deals with any fuel in a manner that would require him to be a registrant under this Act or the regulations,

is guilty of an offence and on summary conviction is liable to a fine of not less than the amount of tax, if any, that should have been paid or remitted by such person in compliance with this Act or the regulations, plus an additional amount of not less than \$100 and not more than \$2,000.

2. Section 3 of the said Act, as amended by the Statutes of Ontario, 1972, chapter 14, section 2 and 1972, chapter 147, section 2, is further amended by adding thereto the following subsection:

s. 3,
amended

(10) Where any person selling fuel receives any payment made as or in lieu of the tax payable under this Act, such payment shall be dealt with and accounted for as tax under this Act, and any person who fails to deal with and account for such payment in accordance with this Act and the regulations is liable to the same penalties and fines, and is guilty of the same offences, as would apply if the payment were the tax payable under this Act, and the Minister may collect and receive such payment by the same remedies and procedures as are provided by this Act or the regulations for the collection and enforcement of the tax payable under this Act.

Amounts
in lieu
of tax

3. Subsection 1 of section 4 of the said Act, as amended by the Statutes of Ontario, 1972, chapter 147, section 3, is further amended by adding at the end thereof "or that he is a registrant".

s. 4 (1),
amended

4.—(1) Subsection 1 of section 4a of the said Act, as enacted by the Statutes of Ontario, 1972, chapter 147, section 4, is amended by inserting after "may" in the sixth line "stop and".

s. 4a (1),
amended

s. 4a (2),
amended

(2) Subsection 2 of the said section 4a is amended by inserting after "be" in the first line "stopped and".

s. 5,
amended

5.—(1) Section 5 of the said Act is amended by striking out "upon request therefor" in the second line.

s. 5,
amended

(2) The said section 5 is further amended by adding thereto the following subsection:

Respon-
sibility of
purchaser

(2) Upon the request of the Minister, every purchaser of fuel and every person in control of a motor vehicle that contains fuel shall furnish to the Minister proof that the fuel was purchased from a registrant or that tax has been paid on such fuel or that no tax was payable under this Act on such fuel.

s. 7 (2),
re-enacted

6. Subsection 2 of section 7 of the said Act, as amended by the Statutes of Ontario, 1975, chapter 10, section 2, is repealed and the following substituted therefor:

Exception

(2) No registrant shall collect the tax imposed by this Act on fuel supplied by him to a registrant, unless the fuel is supplied by delivering it directly into the fuel tank of a motor vehicle licensed or required to be licensed under *The Highway Traffic Act*, or unless the registrant to whom the fuel is supplied is required or permitted by this Act or the Minister to pay the tax imposed by this Act.

R.S.O. 1970,
c. 202

s. 10b (1),
amended

7.—(1) Subsection 1 of section 10b of the said Act, as enacted by the Statutes of Ontario, 1972, chapter 147, section 7, is amended by inserting after "in" in the second line "subsection 8 of section 2 or in".

s. 10b (2),
amended

(2) Subsection 2 of the said section 10b is amended by inserting after "under" in the first line "subsection 8 of section 2 or under" and by inserting after "collected" in the sixth line and in the seventh line "or paid".

ss. 16a, 16b,
enacted

8. The said Act is amended by adding thereto the following sections:

Investi-
gations

16a.—(1) Any person thereunto authorized by the Minister for any purpose related to the administration or enforcement of this Act or the regulations may at all reasonable times enter and examine any motor vehicle containing fuel or enter into any premises where any business is carried on or any property is kept or anything is done in connection with any business or where any books or records are or should be kept pursuant to this Act or the regulations, and may,

SECTION 5. The amendment in subsection 1 removes the provision that a seller of fuel was required to provide an invoice only when requested to do so. He will now be obliged to provide the invoice without a request being made. The amendment in subsection 2 makes it clear that a purchaser of fuel or the operator of a motor vehicle that consumes fuel must furnish to the Minister proof that the fuel was purchased from a registrant, that tax was paid on the fuel, or that no tax was payable.

SECTION 6. The amendment re-enacts subsection 2 as it was previously in force and adds an exception that will allow a registrant to collect the tax from another registrant where that registrant is required to pay tax (as he might be if he were a purchaser) or where the registrant is permitted to pay tax (as some registrants do for their own convenience).

SECTION 7. The amendments are consequential on the amendment made in section 1 of the Bill.

SECTION 8. The amendment adds two new sections to the Act, sections 16*a* and 16*b*. Section 16*a* adds to the Act investigation provisions that are common in the other revenue statutes of the Province. Section 16*b* will be required to implement the expanded registration system proposed in the Treasurer's Budget. That section will require the giving of certain information by those who carry fuel in bulk in Ontario, and provides for the detention of a carrier's truck until accurate information is given. The rapidity with which fuel can be transported throughout the Province, and the fact that fuel that is taxable when it is used in a motor vehicle is the same as fuel that is exempt from tax when it is used as heating oil make it necessary to obtain the information specified in the amendment to determine that fuel purchased exempt from tax is not subsequently being put to a use that attracts tax.

- (a) audit or examine the books, records, accounts, vouchers, letters, telegrams or other documents that relate or may relate either to the information that is or should be in the books or records or to the amount of tax that is or should be collected, payable or remitted under this Act or the regulations;
- (b) examine any fuel or motor vehicle or the property described by an inventory or any property, process or matter, an examination of which may, in his opinion, assist him in determining the accuracy of any inventory or in ascertaining the information that is or should be in the books or records or the amount of any tax payable under this Act or that should be remitted or collected under this Act or the regulations;
- (c) require a purchaser, retailer, wholesaler, importer, registrant or an operator of a motor vehicle liable to collect or pay or considered possibly liable to collect or pay tax under this Act or, if such purchaser, retailer, wholesaler, importer, registrant or operator is a partnership or corporation, require a partner or the president, manager, secretary or any director, agent or representative thereof or any other person on the premises of such purchaser, retailer, wholesaler, importer or registrant or in the motor vehicle of such operator to give him all reasonable assistance with his audit or examination and to answer all questions relating to the audit or examination either orally or, if he so requires, in writing, on oath or by statutory declaration, and for that purpose require such person to attend at the premises with him; and
- (d) if during the course of an audit or examination it appears to him that there has been a contravention of this Act or the regulations, seize and take away any of the records, books, accounts, vouchers, letters, telegrams and other documents and retain them until they are produced in any court proceedings.

(2) The Minister may, for any purpose related to the administration or enforcement of this Act or the regulations, by registered letter or by a demand served personally, require from any purchaser, retailer, wholesaler, importer, registrant, or from the owner or operator of a motor vehicle, or if any of them is a partnership or corporation, from a partner or the president, manager, secretary or any director, agent or representative thereof, ^{Idem}

- (a) any information or a return as required under this Act or the regulations; or
- (b) production or production on oath of any books, letters, accounts, invoices, statements, financial or otherwise, or other documents,

within such reasonable time as is stipulated therein.

Idem

(3) The Minister may, for any purpose related to the administration or enforcement of this Act or the regulations, with the approval of a judge of the Supreme Court, which approval the judge is hereby empowered to give upon *ex parte* application, authorize in writing any officer of the Ministry of Revenue, together with such members of the Ontario Provincial Police Force or other peace officers as he calls upon to assist him and such other persons as are named therein, to enter and search, if necessary by force, any building, receptacle or place, or any motor vehicle containing fuel, for documents, books, records, papers or things that may afford evidence as to the contravention of any provision of this Act or the regulations and to seize and take away any such documents, books, records, papers or things and retain them until they are produced in any court proceedings.

Production
of evidence
to prove
tax payable
by another
person

(4) The Minister may, by registered letter or by a demand that is served personally, require the production, under oath or otherwise, by any person, partnership, syndicate, trust or corporation, or by his or its agent or officer, of any letters, accounts, invoices, statements, financial or otherwise, books or other documents in the possession or in the control of such person, partnership, syndicate, trust or corporation or of his or its agent or officer for the purpose of determining what tax, if any, is collectable or payable under this Act by any purchaser or registrant, and production thereof shall be made within such reasonable time as is stipulated in such registered letter or demand.

Copies

(5) Where a book, record or other document has been seized, examined or produced under this section, the person by whom it is seized or examined or to whom it is produced, or any officer of the Ministry of Revenue, may make, or cause to be made, one or more copies thereof, and a document purporting to be certified by the Minister or a person thereunto authorized by the Minister to be a copy made pursuant to this section is admissible in evidence and has the same probative force as the original document would have had if it had been proved in the ordinary way.

(6) No person shall hinder or molest or interfere with any ^{Compliance} person doing anything that he is authorized by this section to do, or prevent or attempt to prevent any person doing any such thing.

(7) Notwithstanding any other law to the contrary, every ^{Idem} person shall, unless he is unable to do so, do everything that he is required by this section to do.

(8) Every person who contravenes this section or who fails ^{Offence} to provide any information or make any return requested under this section is guilty of an offence and on summary conviction is liable to a fine of \$50 for each day during which the offence continues.

16b.—(1) Every person carrying fuel in a motor vehicle ^{Information on bulk shipments of fuel} that is equipped to carry more than 40 gallons of fuel in a tank other than the fuel tank of the motor vehicle, and the operator of every such motor vehicle, shall, when requested by the Minister or any person authorized by the Minister, provide any or all of the following information,

- (a) the name and address of any person from whom the fuel being carried was obtained, and the name and address of any person to whom the fuel so obtained was delivered or is to be delivered;
- (b) the quantity of fuel delivered or to be delivered to any person; or
- (c) the use or intended use, if known, to be made of any fuel delivered or to be delivered from such motor vehicle,

and where no written evidence substantiating such information is available at the time that the request is made, the person to whom the request is made shall orally supply the information and may be required to certify in writing any of such oral statements.

(2) Where the information required to be furnished by sub- ^{Detention of motor vehicle} section 1 is not given, or where the information that is furnished is false, the motor vehicle may be detained by the Minister until the information is provided or until the true information is provided, and during any such detention, the Crown shall not be liable for any damages to the motor vehicle or to its owner or operator or otherwise that may occur or be alleged to occur by reason of the detention of the motor vehicle pending the furnishing of the information required by subsection 1 or the furnishing of accurate information as required by subsection 1.

s. 21,
amended

9. Section 21 of the said Act, as amended by the Statutes of Ontario, 1972, chapter 147, section 11 and 1975, chapter 10, section 7, is further amended by adding thereto the following subsections:

Idem

(2) The Lieutenant Governor in Council may make regulations establishing a system of registration for the purposes of this Act, and,

- (a) requiring persons who buy, sell, deal in, consume or refine any fuel, including fuel for the heating of homes and buildings, to become registrants under this Act for the purpose of accounting for, collecting or facilitating the administration of the tax imposed by this Act;
- (b) prescribing classes of registrants, the conditions and restrictions affecting any prescribed class of registrant, and the method of collecting or paying the tax imposed by this Act to be followed by any prescribed class of registrant;
- (c) prescribing the information, returns and records to be given, made or kept by any registrant or class of registrants;
- (d) requiring the registration of the operators of commercially-used motor vehicles that consume or carry fuel and that are not vehicles operated exclusively for pleasure or recreation;
- (e) exempting any person or class of persons from the application of subsection 2 of section 2.

Idem

(3) The Minister may make regulations prescribing any form required by this Act or the regulations or that, in his opinion, will assist in the administration of this Act, and prescribing how and by whom any form shall be completed and what information it shall contain.

Idem

(4) A regulation, other than a regulation made under subsection 2, is, if it so provides, effective with reference to a period before it was filed.

Commence-
ment

10. This Act comes into force on the day it receives Royal Assent.

Short title

11. The short title of this Act is *The Motor Vehicle Fuel Tax Amendment Act, 1977*.

SECTION 9. The subsections added by the amendment will empower the Lieutenant Governor in Council, by subsection 2, to make regulations implementing the system of expanded registration proposed by the Treasurer for the control of middle distillate fuels. The new subsection 3 will, as in other revenue statutes of the Province, enable the Minister to prescribe forms necessary for the Act or regulations, and subsection 4 will permit regulations to have retrospective effect, except for the regulations to implement the system of expanded registration.

An Act to amend
The Motor Vehicle Fuel Tax Act

1st Reading

June 27th, 1977

2nd Reading

3rd Reading

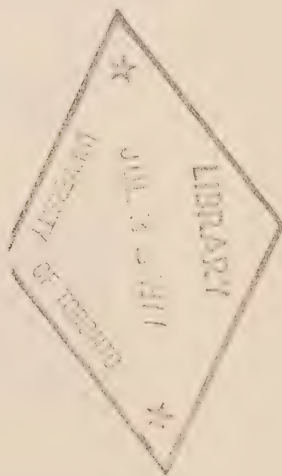
THE HON. M. SCRIVENER
Minister of Revenue

(Government Bill)

1ST SESSION, 31ST LEGISLATURE, ONTARIO
26 ELIZABETH II, 1977

An Act to amend The Motor Vehicle Fuel Tax Act

THE HON. MARGARET SCRIVENER
Minister of Revenue



TORONTO

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An Act to amend The Motor Vehicle Fuel Tax Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Section 2 of *The Motor Vehicle Fuel Tax Act*, being chapter 282 of the Revised Statutes of Ontario, 1970, as amended by the Statutes of Ontario, 1975, chapter 10, section 1, is repealed and the following substituted therefor:

2.—(1) Unless he is a registrant, no person shall supply fuel that is taxable or exempt from tax under this Act or the regulations to any person, except as authorized in writing by the Minister, and every person in the business of supplying fuel for any purpose shall register with the Minister as required by this section or the regulations. s. 2,
re-enacted
Persons
required to
register

(2) Unless he is a registrant or is specifically exempted by the regulations from the application of this subsection, no person shall receive fuel as a registrant. Idem

(3) Where the Minister is satisfied that the applicant for a registration certificate will be acquiring fuel principally, Idem

(a) for resale by the applicant;

(b) to be used by the applicant in a manner or for a purpose that will render such fuel exempt from tax by virtue of this Act or the regulations, or that will entitle the applicant to apply to the Minister for a full refund of the tax imposed by this Act on such fuel, and that the amount of fuel to be used by the applicant will generally exceed 75 gallons of fuel per month; or

(c) to be disposed of or consumed by the applicant in a manner prescribed by the regulations for the purpose of this subsection,

the Minister may issue a registration certificate to such applicant, and the certificate may be made subject to such conditions and restrictions as the Minister considers necessary to ensure that fuel acquired by the applicant through his use of the certificate will be dealt with by the applicant in accordance with clause *a*, *b* or *c*, as the case may be.

Idem

(4) Every person required to be a registrant under this section or the regulations shall, by such form and in such manner as the Minister requires, apply for registration, and subject to this Act and the regulations, a registration certificate shall be issued by the Minister, and every such certificate shall expire on the 31st day of March next following the date of its issue, is not transferable, and may be renewed annually if the registrant to whom it is issued is not in contravention of this Act or the regulations and continues to satisfy the conditions under which the certificate is issued.

Refusal to
issue and
cancellation

(5) The Minister may refuse to issue a registration certificate to any applicant, or may suspend or cancel any registration certificate, if the person to whom the certificate is issued, or if an applicant to whom a certificate has been issued, contravenes or has permitted the contravention of the provisions of this Act or the regulations or the conditions or restrictions upon which his certificate is or was issued, but, subject to subsection 6, before any refusal, suspension or cancellation is made, the applicant or registrant, as the case may be, shall be afforded an opportunity, at a hearing before the Minister or some person authorized by the Minister to hold the hearing, to show cause why the issue of a registration certificate should not be refused or why the registration certificate should not be suspended or cancelled, whichever is the case.

Idem

(6) Where a registrant has failed to remit the tax that he has collected under this Act or that is payable by him under this Act at the time and in the manner required by this Act or the regulations, the Minister may, by notice in writing to the registrant and without a hearing, suspend forthwith the registrant's certificate of registration, and the notice shall state the failure of the registrant for which his certificate is suspended and shall fix a day, not more than fifteen days after the date of the suspension, for a hearing before the Minister or some person authorized by him to hold the hearing to determine whether the registrant's suspension should be rescinded or continued and upon what conditions the suspension may be rescinded or continued.

Service of
notice

(7) The notice under subsection 6 and a notice of hearing under subsection 5 is properly served if served either by

personal service or by registered mail sent to the last known address of the registrant or applicant, as the case may be.

(8) Every person who,

Offence

- (a) is required to become a registrant by this section or by the regulations and who fails to do so;
- (b) being a registrant, contravenes this Act or the regulations or any condition or restriction contained in his certificate of registration issued under this Act or the regulations; or
- (c) not being a registrant, supplies, disposes of, consumes or deals with any fuel in a manner that would require him to be a registrant under this Act or the regulations,

is guilty of an offence and on summary conviction is liable to a fine of not less than the amount of tax, if any, that should have been paid or remitted by such person in compliance with this Act or the regulations, plus an additional amount of not less than \$100 and not more than \$2,000.

2. Section 3 of the said Act, as amended by the Statutes of ^{s. 3, amended} Ontario, 1972, chapter 14, section 2 and 1972, chapter 147, section 2, is further amended by adding thereto the following subsection:

(10) Where any person selling fuel receives any payment ^{Amounts in lieu of tax} made as or in lieu of the tax payable under this Act, such payment shall be dealt with and accounted for as tax under this Act, and any person who fails to deal with and account for such payment in accordance with this Act and the regulations is liable to the same penalties and fines, and is guilty of the same offences, as would apply if the payment were the tax payable under this Act, and the Minister may collect and receive such payment by the same remedies and procedures as are provided by this Act or the regulations for the collection and enforcement of the tax payable under this Act.

3. Subsection 1 of section 4 of the said Act, as amended by the ^{s. 4 (1), amended} Statutes of Ontario, 1972, chapter 147, section 3, is further amended by adding at the end thereof "or that he is a registrant".

- 4.—(1) Subsection 1 of section 4a of the said Act, as enacted by ^{s. 4a (1), amended} the Statutes of Ontario, 1972, chapter 147, section 4, is amended by inserting after "may" in the sixth line "stop and".

s. 4a (2),
amended

- (2) Subsection 2 of the said section 4a is amended by inserting after "be" in the first line "stopped and".

s. 5,
amended

- 5.—(1) Section 5 of the said Act is amended by striking out "upon request therefor" in the second line.

s. 5,
amended

- (2) The said section 5 is further amended by adding thereto the following subsection:

Respon-
sibility of
purchaser

- (2) Upon the request of the Minister, every purchaser of fuel and every person in control of a motor vehicle that contains fuel shall furnish to the Minister proof that the fuel was purchased from a registrant or that tax has been paid on such fuel or that no tax was payable under this Act on such fuel.

s. 7 (2),
re-enacted

6. Subsection 2 of section 7 of the said Act, as amended by the Statutes of Ontario, 1975, chapter 10, section 2, is repealed and the following substituted therefor:

Exception

- (2) No registrant shall collect the tax imposed by this Act on fuel supplied by him to a registrant, unless the fuel is supplied by delivering it directly into the fuel tank of a motor vehicle licensed or required to be licensed under *The Highway Traffic Act*, or unless the registrant to whom the fuel is supplied is required or permitted by this Act or the Minister to pay the tax imposed by this Act.

R.S.O. 1970,
c. 202

s. 10b (1),
amended

- 7.—(1) Subsection 1 of section 10b of the said Act, as enacted by the Statutes of Ontario, 1972, chapter 147, section 7, is amended by inserting after "in" in the second line "subsection 8 of section 2 or in".

s. 10b (2),
amended

- (2) Subsection 2 of the said section 10b is amended by inserting after "under" in the first line "subsection 8 of section 2 or under" and by inserting after "collected" in the sixth line and in the seventh line "or paid".

ss. 16a, 16b,
enacted

8. The said Act is amended by adding thereto the following sections:

Investi-
gations

- 16a.—(1) Any person thereunto authorized by the Minister for any purpose related to the administration or enforcement of this Act or the regulations may at all reasonable times enter and examine any motor vehicle containing fuel or enter into any premises where any business is carried on or any property is kept or anything is done in connection with any business or where any books or records are or should be kept pursuant to this Act or the regulations, and may,

- (a) audit or examine the books, records, accounts, vouchers, letters, telegrams or other documents that relate or may relate either to the information that is or should be in the books or records or to the amount of tax that is or should be collected, payable or remitted under this Act or the regulations;
- (b) examine any fuel or motor vehicle or the property described by an inventory or any property, process or matter, an examination of which may, in his opinion, assist him in determining the accuracy of any inventory or in ascertaining the information that is or should be in the books or records or the amount of any tax payable under this Act or that should be remitted or collected under this Act or the regulations;
- (c) require a purchaser, retailer, wholesaler, importer, registrant or an operator of a motor vehicle liable to collect or pay or considered possibly liable to collect or pay tax under this Act or, if such purchaser, retailer, wholesaler, importer, registrant or operator is a partnership or corporation, require a partner or the president, manager, secretary or any director, agent or representative thereof or any other person on the premises of such purchaser, retailer, wholesaler, importer or registrant or in the motor vehicle of such operator to give him all reasonable assistance with his audit or examination and to answer all questions relating to the audit or examination either orally or, if he so requires, in writing, on oath or by statutory declaration, and for that purpose require such person to attend at the premises with him; and
- (d) if during the course of an audit or examination it appears to him that there has been a contravention of this Act or the regulations, seize and take away any of the records, books, accounts, vouchers, letters, telegrams and other documents and retain them until they are produced in any court proceedings.

(2) The Minister may, for any purpose related to the ^{Idem} administration or enforcement of this Act or the regulations, by registered letter or by a demand served personally, require from any purchaser, retailer, wholesaler, importer, registrant, or from the owner or operator of a motor vehicle, or if any of them is a partnership or corporation, from a partner or the president, manager, secretary or any director, agent or representative thereof,

- (a) any information or a return as required under this Act or the regulations; or
- (b) production or production on oath of any books, letters, accounts, invoices, statements, financial or otherwise, or other documents,

within such reasonable time as is stipulated therein.

Idem

(3) The Minister may, for any purpose related to the administration or enforcement of this Act or the regulations, with the approval of a judge of the Supreme Court, which approval the judge is hereby empowered to give upon *ex parte* application, authorize in writing any officer of the Ministry of Revenue, together with such members of the Ontario Provincial Police Force or other peace officers as he calls upon to assist him and such other persons as are named therein, to enter and search, if necessary by force, any building, receptacle or place, or any motor vehicle containing fuel, for documents, books, records, papers or things that may afford evidence as to the contravention of any provision of this Act or the regulations and to seize and take away any such documents, books, records, papers or things and retain them until they are produced in any court proceedings.

Production
of evidence
to prove
tax payable
by another
person

(4) The Minister may, by registered letter or by a demand that is served personally, require the production, under oath or otherwise, by any person, partnership, syndicate, trust or corporation, or by his or its agent or officer, of any letters, accounts, invoices, statements, financial or otherwise, books or other documents in the possession or in the control of such person, partnership, syndicate, trust or corporation or of his or its agent or officer for the purpose of determining what tax, if any, is collectable or payable under this Act by any purchaser or registrant, and production thereof shall be made within such reasonable time as is stipulated in such registered letter or demand.

Copies

(5) Where a book, record or other document has been seized, examined or produced under this section, the person by whom it is seized or examined or to whom it is produced, or any officer of the Ministry of Revenue, may make, or cause to be made, one or more copies thereof, and a document purporting to be certified by the Minister or a person thereunto authorized by the Minister to be a copy made pursuant to this section is admissible in evidence and has the same probative force as the original document would have had if it had been proved in the ordinary way.

(6) No person shall hinder or molest or interfere with any person doing anything that he is authorized by this section to do, or prevent or attempt to prevent any person doing any such thing. Compliance

(7) Notwithstanding any other law to the contrary, every person shall, unless he is unable to do so, do everything that he is required by this section to do. Idem

(8) Every person who contravenes this section or who fails to provide any information or make any return requested under this section is guilty of an offence and on summary conviction is liable to a fine of \$50 for each day during which the offence continues. Offence

16b.—(1) Every person carrying fuel in a motor vehicle that is equipped to carry more than 40 gallons of fuel in a tank other than the fuel tank of the motor vehicle, and the operator of every such motor vehicle, shall, when requested by the Minister or any person authorized by the Minister, provide any or all of the following information, Information on bulk shipments of fuel

- (a) the name and address of any person from whom the fuel being carried was obtained, and the name and address of any person to whom the fuel so obtained was delivered or is to be delivered;
- (b) the quantity of fuel delivered or to be delivered to any person; or
- (c) the use or intended use, if known, to be made of any fuel delivered or to be delivered from such motor vehicle,

and where no written evidence substantiating such information is available at the time that the request is made, the person to whom the request is made shall orally supply the information and may be required to certify in writing any of such oral statements.

(2) Where the information required to be furnished by subsection 1 is not given, or where the information that is furnished is false, the motor vehicle may be detained by the Minister until the information is provided or until the true information is provided, and during any such detention, the Crown shall not be liable for any damages to the motor vehicle or to its owner or operator or otherwise that may occur or be alleged to occur by reason of the detention of the motor vehicle pending the furnishing of the information required by subsection 1 or the furnishing of accurate information as required by subsection 1. Detention of motor vehicle

s. 21,
amended

9. Section 21 of the said Act, as amended by the Statutes of Ontario, 1972, chapter 147, section 11 and 1975, chapter 10, section 7, is further amended by adding thereto the following subsections:

Idem

(2) The Lieutenant Governor in Council may make regulations establishing a system of registration for the purposes of this Act, and,

- (a) requiring persons who buy, sell, deal in, consume or refine any fuel, including fuel for the heating of homes and buildings, to become registrants under this Act for the purpose of accounting for, collecting or facilitating the administration of the tax imposed by this Act;
- (b) prescribing classes of registrants, the conditions and restrictions affecting any prescribed class of registrant, and the method of collecting or paying the tax imposed by this Act to be followed by any prescribed class of registrant;
- (c) prescribing the information, returns and records to be given, made or kept by any registrant or class of registrants;
- (d) requiring the registration of the operators of commercially-used motor vehicles that consume or carry fuel and that are not vehicles operated exclusively for pleasure or recreation;
- (e) exempting any person or class of persons from the application of subsection 2 of section 2.

Idem

(3) The Minister may make regulations prescribing any form required by this Act or the regulations or that, in his opinion, will assist in the administration of this Act, and prescribing how and by whom any form shall be completed and what information it shall contain.

Idem

(4) A regulation, other than a regulation made under subsection 2, is, if it so provides, effective with reference to a period before it was filed.

Commence-
ment

10. This Act comes into force on the day it receives Royal Assent.

Short title

11. The short title of this Act is *The Motor Vehicle Fuel Tax Amendment Act, 1977*.

An Act to amend
The Motor Vehicle Fuel Tax Act

1st Reading

June 27th, 1977

2nd Reading

July 6th, 1977

3rd Reading

July 6th, 1977

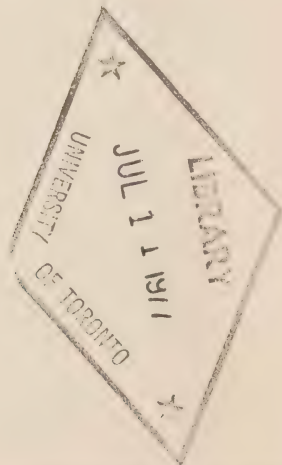
THE HON. MARGARET SCRIVENER
Minister of Revenue

1ST SESSION, 31ST LEGISLATURE, ONTARIO
26 ELIZABETH II, 1977

Government
Publications

An Act to impose a Tax on Certain Pollutants of
the Environment in Ontario

THE HON. M. SCRIVENER
Minister of Revenue



TORONTO

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EXPLANATORY NOTE

As proposed in the Treasurer's Budget, the Bill imposes on the consumer of canned, carbonated soft drinks in Ontario a tax of 5 cents on each canned, carbonated soft drink purchased. The tax is to be collected by those who fill the cans with carbonated soft drinks in Ontario or who import canned, carbonated soft drinks into Ontario. As stated in the Treasurer's Budget, the revenue from this tax is intended to assist the funding of major environmental projects and the construction and operation by municipalities or community organizations of collection depots and recycling or reclamation facilities.

In addition to providing for the imposition and collection of the tax on the consumer of a canned, carbonated soft drink, the Bill will also provide the administrative provisions usual in other revenue statutes of the Province.

BILL 18

1977

An Act to impose a Tax on Certain Pollutants of the Environment in Ontario

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. In this Act,

Interpre-
tation

- (a) "assessment" includes a reassessment;
- (b) "can" means a container prescribed for the purpose of this Act or any closed metal container in which soft drinks are packaged to be sold at a retail sale, and "canned" has a corresponding meaning;
- (c) "consumer" means a person who himself or through another purchases, acquires or produces a canned soft drink anywhere,
 - (i) for his consumption in Ontario of the soft drink therein contained,
 - (ii) for the purpose of consumption in Ontario by others at his expense of the soft drink therein contained, or
 - (iii) for the purpose of removing the soft drink from the can in Ontario and of selling or giving the soft drink to others to consume;
- (d) "consumption", with respect to a canned soft drink, means the utilizing in Ontario by a consumer of a canned soft drink for the purpose of the consuming or using up in any manner of the soft drink therein contained;
- (e) "collector" means a person who, whether for himself or as agent for another or in partnership or association with others,

- (i) carries on in Ontario the business of putting soft drinks into cans for the purpose of selling canned soft drinks to others for resale or consumption,
 - (ii) brings, or causes to be brought, into Ontario canned soft drinks for the purpose of selling them to others for resale or consumption, or
 - (iii) requests the Minister to make him a collector and whom the Minister consents to appoint as a collector;
- (f) "Minister" means the Minister of Revenue and "Ministry" has a corresponding meaning;
 - (g) "person" means an individual, a corporation, a trust, or any association of any of them and of whatsoever kind acting in concert;
 - (h) "prescribed" means prescribed by regulations;
 - (i) "regulations" means the regulations made under this Act;
 - (j) "retail sale", with respect to canned soft drinks, means a sale to a consumer for the purpose of consumption and not for resale;
 - (k) "sale", with respect to canned soft drinks, means any transfer of title or possession thereof that is made for a price or other consideration that is payable or given before, at or after such transfer and whether such price or consideration is given in full, in instalments or on credit extended by the seller;
 - (l) "soft drink" means any non-alcoholic carbonated beverage prescribed for the purpose of this clause, or any non-alcoholic carbonated beverage made of fruit juice, flavouring, sweetening, soda water, sparkling water or mineral water or any combination of any of them as the principal ingredients thereof;
 - (m) "tax guarantee" means the sum of five cents for each canned soft drink as required to be collected and paid by this Act or the regulations as a security for, and guarantee of, the collection of the tax imposed by this Act and the due compliance with this Act and the regulations of those who are agents of the Minister;

(n) "Treasurer" means the Treasurer of Ontario and Minister of Economics and Intergovernmental Affairs.

2.—(1) Every consumer of a canned soft drink shall, ^{Tax imposed} as required by subsections 2 and 5, pay to Her Majesty in right of Ontario for the uses of Ontario a tax of five cents on each canned soft drink with respect to the consumption thereof.

(2) Where a canned soft drink is acquired at a retail sale ^{When tax payable} in Ontario, the consumer shall pay the tax imposed by subsection 1 at the time of such sale, and where a canned soft drink is purchased outside Ontario and is brought into Ontario for consumption in Ontario by the purchaser, the tax imposed by subsection 1 is payable on the day the canned soft drink is brought into Ontario and shall be remitted to the Minister within twenty days thereafter.

(3) The tax imposed by subsection 1 is payable ^{Tax to be separate} in addition to any other tax payable on or with respect to the sale or consumption of a canned soft drink, and every person on whom tax is imposed by this Act remains liable therefor until the tax is paid.

(4) Every person who sells a canned soft drink at a retail ^{Collection of tax} sale in Ontario is an agent of the Minister for the collection of the tax imposed by this Act, is accountable to the Minister for the failure to collect such tax, and shall collect the tax and account for it in accordance with this Act and the regulations, and if such person collects more tax than is required to reimburse him for the tax guarantee paid by him on his purchase of the canned soft drinks that he sells, such excess shall be remitted to the Minister by the end of the month in which it is collected or at such other time as is prescribed by the Minister.

(5) Every collector who is a consumer of any canned soft drink in Ontario that he has not purchased at a retail sale ^{Collector as consumer or retailer} in Ontario, and every collector who sells any canned soft drink at a retail sale thereof in Ontario, shall, as the case requires, remit to the Minister the tax payable by such collector in respect of his consumption of any canned soft drink, or collect from the consumer of any canned soft drink purchased at a retail sale in Ontario made by the collector the tax imposed by this Act, and such tax so collected shall be remitted to the Minister by the end of the month in which it becomes payable or is collected, as the case may be, or at such other time as is prescribed by the Minister.

Guarantee to
secure tax
collection

3.—(1) Every purchaser of any canned soft drink at a sale in Ontario that is neither a retail sale nor a sale with respect to which a certificate under subsection 3 is given by the purchaser shall pay to the seller at such sale a tax guarantee calculated on the number of canned soft drinks so purchased, and every person selling any canned soft drink at a sale in Ontario that is neither a retail sale nor a sale with respect to which a certificate under subsection 3 is given by the purchaser shall, as agent of the Minister, collect the tax guarantee required to be paid by the purchaser, and shall deal with the tax guarantee in accordance with this Act and the regulations.

Tax
guarantee
to be term
of sale

(2) Every oral or written agreement or contract of sale with respect to which a tax guarantee is required to be paid under subsection 1 shall be deemed at law and in equity to contain a term (which may not be waived, revoked or cancelled by the parties thereto) that the tax guarantee required to be paid under subsection 1 shall be paid by the purchaser to the seller at the time of the sale and as part of the terms thereof.

Certificate
in lieu of
guarantee

(3) Any person holding a valid and subsisting certificate of registration issued under section 6 and purchasing in Ontario any canned soft drink to be sold by him outside Ontario may, in lieu of paying the tax guarantee required by subsection 1, certify in writing signed by him or on his behalf and containing the number of his certificate of registration issued under section 6 that the canned soft drinks being purchased are purchased for sale outside Ontario, and upon receiving such certification, the seller, unless he has reasonable cause to believe that the certification is false or incorrect, may sell the canned soft drinks referred to in the certificate under this section without collecting the tax guarantee.

Remittance
of tax
guarantee

(4) Every person who brings, or causes to be brought, into Ontario canned soft drinks for the purpose of selling them to others for resale or consumption shall, on the day after the day the canned soft drinks are brought into Ontario or at such other time and in such other manner as may be prescribed by the Minister, remit to the Minister a tax guarantee calculated with respect to such canned soft drinks and a statement of the number of such canned soft drinks brought into Ontario and such other information as is required by the Minister to be contained in the statement.

Collector's
return and
remittance

(5) Subject to subsection 4, every collector shall, in such manner and at such time or times as may be prescribed by the Minister, send to the Minister a return showing such information as is prescribed by the Minister, and shall remit

to the Minister with the return the amount of any tax guarantee collected by the collector in the period covered by the return, except such amounts as may properly be applied by the collector in accordance with subsection 6 to indemnify and reimburse himself for the amount of any tax guarantee paid by him in accordance with subsection 4.

(6) Where any person sells in Ontario any canned soft drink with respect to which, either at the time of his purchase thereof or in accordance with subsection 4, he paid a tax guarantee he shall,

- (a) where the sale is neither a retail sale nor a sale with respect to which a certificate under subsection 3 is given, apply the tax guarantee that he collects on such sale to indemnify and reimburse himself for the tax guarantee paid by him on his purchase of the canned soft drinks or in accordance with subsection 4, and if he collects a tax guarantee in excess of that paid by him in accordance with subsection 4 or on his purchase of the canned soft drinks being sold, such excess shall be remitted to the Minister by the end of the month in which it is collected or at such other time as is prescribed by the Minister; or
- (b) where the sale is a retail sale, collect from the consumer the tax imposed by this Act with respect to the canned soft drinks being sold, and apply such tax to indemnify and reimburse himself for the tax guarantee paid by him in accordance with subsection 4 or on his purchase of the canned soft drinks; or
- (c) where the sale is a sale with respect to which a certificate under subsection 3 is given, apply in the manner and time prescribed by the Minister for a refund of the tax guarantee paid by him in accordance with subsection 4 or on his purchase of the canned soft drinks so sold.

(7) Every person who collects or is required to pay a tax guarantee under this Act is an agent of the Minister for the purpose of collecting or paying such tax guarantee and of dealing with it as required by this Act or the regulations, and such person is liable to account to the Minister for any failure to pay, collect or deal with the tax guarantee as required by this Act or the regulations.

(8) Every collector is an agent of the Minister for the collection of the tax guarantee that he is required to collect

Application
of tax
guarantee

Duties of
collector

and for the remittance of such guarantee to the Minister as required by this Act or the regulations, and until such remittance is made, an amount equal to the amount of any tax guarantee collected and not remitted shall be deemed to be held in trust for the Crown by the person who collected it and shall not be dealt with except in accordance with this Act or the regulations, and the amount deemed to be held in trust vests in the Crown upon the receipt by the collector of the tax guarantee that such amount represents and may not be assigned, attached, seized or appropriated by any person other than the Crown.

Tax
guarantee
not to bear
interest

(9) No interest is payable by the Crown with respect to any tax guarantee paid by any person.

Deposit on
unsecured
inventory

4.—(1) As at the close of business on the 31st day of July, 1977, every person (other than a person who is a collector within the meaning of subclause i of clause e of section 1 and is registered with the Minister under section 6) having in his possession any canned soft drink for sale or intended sale shall take a full and accurate inventory of the number of canned soft drinks in his possession and shall send to the Minister by the 31st day of August, 1977, or by such other date as may be prescribed by the Minister, a report setting out the number of canned soft drinks in his possession, the quantity of such canned soft drinks that he intends to export out of Ontario, and such other information as the Minister requires to be reported.

Idem

(2) Every person who is required by subsection 1 to make a report of his inventory of canned soft drinks shall remit to the Minister with the report required by subsection 1 a tax guarantee calculated with respect to every canned soft drink in his possession for sale or intended sale in Ontario.

Payments to
Treasurer

5.—(1) Where any payment required by this Act or the regulations to be remitted to the Minister is made by cheque or other bill of exchange or instrument, such cheque or other bill of exchange or instrument shall be made payable to the Treasurer of Ontario and a valid receipt for any such payment, including payments made in cash, may be given by the Minister or by any authorized person employed in the Ministry.

Payments
in lieu
of tax

(2) Where any person selling canned soft drinks receives any payment made as or in lieu of the tax or tax guarantee payable under this Act, such payment shall be dealt with and accounted for as tax or a tax guarantee payable under this Act, and any person who fails to deal with and account for such payment in accordance with this Act and the regulations

is liable to the same penalties and fines, and is guilty of the same offences, as would apply if the payment were the tax or tax guarantee payable under this Act, and the Minister may collect and receive such payment by the same remedies and procedures as are provided by this Act or the regulations for the collection and enforcement of the tax or tax guarantee payable under this Act.

(3) No person made an agent of the Minister under this Act or the regulations shall thus be made ineligible as a member of the Assembly Member of Assembly.

6.—(1) Every collector shall, on or before the later of Registration of collectors either,

(a) the 18th day of July, 1977; or

(b) any day after the 18th day of July, 1977 on which he becomes a collector within the meaning of clause *e* of section 1,

apply to the Minister in writing or by such form as the Minister requires for registration as a collector under this Act.

(2) Every person who, in the normal course of his business, Registration of certain retailers sells canned soft drinks at a retail sale in Ontario and who does not hold a valid and subsisting permit issued under section 3 of *The Retail Sales Tax Act* shall, on or before R.S.O. 1970, c. 415 the later of either,

(a) the 18th day of July, 1977; or

(b) any day after the 18th day of July, 1977 on which he commenced to sell, as part of the normal course of his business, canned soft drinks at a retail sale or sales in Ontario,

apply to the Minister in writing or by such form as the Minister requires for registration as a retail seller of canned soft drinks.

(3) Every person who, in the normal course of his business, Registration of exporters produces or purchases canned soft drinks in Ontario for shipment out of Ontario and who is not required to register with the Minister under subsection 1 or 2 shall, on or before the later of either,

(a) the 18th day of July, 1977; or

- (b) any day after the 18th day of July, 1977 on which he commences to ship canned soft drinks out of Ontario,

apply to the Minister in writing or by such form as the Minister requires for registration as an exporter of canned soft drinks.

Certificate of
registration

(4) Subject to such terms and conditions for registration as may be prescribed, the Minister shall issue to every person who is required to apply for registration under this Act, who fulfills the prescribed terms and conditions, and who has applied for registration a certificate evidencing the registration and valid until the 31st day of March next following the date of issue thereof, and subject to the person's continued fulfillment of the prescribed conditions, the Minister shall renew the certificate annually upon application for such renewal.

Unregistered
sellers

(5) No person who is required to be registered under this Act or the regulations shall, unless he holds a valid and subsisting registration certificate under this Act, sell in Ontario any canned soft drink, and where any person required to be registered under this Act or the regulations sells in Ontario any canned soft drink when he does not hold a valid and subsisting registration certificate under this Act, the Minister, in addition to any other penalty or remedy that may be imposed or exercised under this Act, may apply to the Supreme Court for, and the court may grant, an injunction prohibiting such person from selling any canned soft drink contrary to this Act or the regulations.

Suspension
or cancel-
lation of
registration
R.S.O. 1970,
c. 415

(6) Where any person who is registered under this Act or the regulations or who holds a valid and subsisting permit issued under section 3 of *The Retail Sales Tax Act* negligently or wilfully contravenes any provision of this Act or the regulations, the Minister may, after a hearing at which such contravention is established, cancel or suspend such person's registration under this Act or his permit issued under section 3 of *The Retail Sales Tax Act*, as the case may be, or may continue such registration or permit for the period during which conditions that are accepted at the hearing by the person continue to be performed.

Immediate
suspension

(7) Notwithstanding subsection 6, where a collector has failed to remit, as required by this Act or the regulations, the amount of any tax guarantee or tax collected or payable by him, the Minister may, by notice in writing to the collector and without a hearing, suspend forthwith the registration of the collector under this Act, and the notice shall state the

failure of the collector for which his registration is suspended and the Minister shall, within fifteen days of service of such notice, hold a hearing to determine whether the suspension should be rescinded or whether the collector's registration under this Act should be cancelled or continued only during such period as conditions accepted by the collector at the hearing are performed.

(8) The notice of a hearing under subsection 6 or 7, and the notice of suspension under subsection 7 is properly served if served either personally or by registered mail sent to the last known address of the person to whom the notice is to be given. ^{Service of notice}

7.—(1) Where a person has paid an amount under this Act as tax that is not payable as tax under this Act, the Minister may refund such amount if, within two years following the date of payment of such amount, an application for the refund is made to the Minister and it is established within such two years to the satisfaction of the Minister that the amount sought to be refunded was not payable as tax under this Act. ^{Refund of tax}

(2) Where, within two years of his payment of a tax guarantee, a person applies to the Minister and establishes to the satisfaction of the Minister that the canned soft drinks with respect to which the tax guarantee was paid, ^{Refund of tax guarantee}

- (a) were exported out of Ontario by the applicant to be sold outside Ontario by him, and were so sold; or
- (b) were lost, stolen or destroyed before they were sold by the applicant, and that full recovery or indemnity for the tax guarantee cannot be, and has not been, obtained by the applicant,

the Minister may refund to the applicant the tax guarantee paid by him with respect to such canned soft drinks or refund to the applicant the amount of such tax guarantee for which recovery or indemnity cannot be, and has not been, obtained by the applicant,

(3) Where tax or a tax guarantee has been paid by a purchaser with respect to canned soft drinks, the purchase price of which is fully refunded to him by reason of any defect in or damage to the canned soft drinks that rendered them unfit for sale or consumption by the purchaser, or by reason of the return of the canned soft drinks by the purchaser for some other reason acceptable to the seller to whom they ^{Idem}

are returned, the seller may, for those canned soft drinks the purchase price of which he has refunded in full to the purchaser, also refund to the purchaser any tax or tax guarantee paid to the seller by the purchaser with respect to those canned soft drinks, and the seller may, within two years after the refund of that tax or tax guarantee to the purchaser and if the seller has not received a refund of the tax guarantee from some other seller, apply to the Minister for a refund of the tax guarantee that was paid by the seller on his purchase of those canned soft drinks, and the Minister may make the refund applied for where the Minister is satisfied that the refund made by the purchaser to the seller was made in good faith and that a tax or tax guarantee was paid with respect to the canned soft drinks by the purchaser and a tax guarantee paid by the seller and that the seller has not received and will not receive a refund of the tax guarantee from some other person, and the payment of such tax or tax guarantees and the payment and refund of the purchase price of the canned soft drinks shall be established by invoices, receipts and such other evidence as the Minister may require before making the refund applied for.

Exception

(4) Where, as the result of,

- (a) any assessment under this Act;
- (b) any decision of the Minister following a notice of objection served under this Act; or
- (c) the final decision of a court in proceedings commenced under this Act,

it is shown that an overpayment of the tax or tax guarantee payable under this Act has been made, the amount of such overpayment shall be refunded to the person who paid it notwithstanding any limitation contained in subsection 1, 2 or 3.

Recovery
of excess
refund

(5) Any amount refunded under this Act or the regulations in excess of the amount to which the person receiving the refund is entitled may be recovered by the Minister as though the amount were tax payable under this Act, and the provisions of this Act relating to assessment (including objection and appeal therefrom) and collection of tax apply *mutatis mutandis* to the said amount.

Interest
on unpaid
amounts

8.—(1) Any amount that is payable or to be remitted as tax or a tax guarantee under this Act or the regulations, or that is payable as a penalty imposed under this Act otherwise than a penalty imposed as the result of a prosecution for an

offence under this Act, bears interest at the rate prescribed and from the day on which the amount should have been paid or remitted to the day of payment.

(2) Any payment, other than the payment of a fine, to the Treasurer under this Act shall first be applied to any interest payable by the person making the payment or on whose account the payment is made. ^{Payment first applied to interest}

(3) Where, owing to special circumstances, it is considered inequitable that the whole amount of interest payable by any person under this Act be paid, the Minister may exempt a person from payment of the whole or any part of such interest. ^{Relief from interest}

9.—(1) The Minister may, at any time he considers reasonable, assess or reassess, ^{Assessment}

(a) any tax that any person, as agent of the Minister, has collected and not remitted, and the interest or any penalty with respect thereto; or

(b) any tax or tax guarantee payable by any person that has not been paid or applied as required by this Act or the regulations, and the interest or any penalty with respect thereto.

(2) Where it appears from an inspection, audit or examination of the books of account, records or documents of any consumer or collector, of any person required to register with the Minister under section 6, or of any person producing or selling canned soft drinks that this Act or the regulations have not been complied with, the person making the inspection, audit or examination shall, in such manner and form and by such procedure as the Minister considers adequate and expedient, calculate the amount of any tax or tax guarantee that has not been paid or applied in accordance with this Act or the regulations, and the Minister may assess such person for such amount and for the interest or any penalty payable with respect thereto. ^{Assessment on inspection}

(3) Every person who has failed to collect, or who has failed to pay or to remit to the Minister, the tax or tax guarantee that he is responsible to collect or pay or remit under this Act or the regulations shall, when assessed therefor, pay a penalty equal to the amount of the tax or tax guarantee that he failed to collect or pay or remit but no penalty under this subsection shall be imposed with respect to tax or a tax guarantee that should have been collected, paid or remitted more than three years immediately preceding the day of the assessment therefor unless the ^{Penalty}

Minister establishes that the person assessed has made any misrepresentation that is attributable to neglect, carelessness or wilful default, or has committed any fraud, in making a return or in supplying any information under this Act or the regulations or in omitting to disclose any information.

Limitation

(4) An assessment or reassessment made under subsection 1 or 2 shall be made within four years of the day the tax became payable or, in the case of a tax guarantee, within four years of the day the tax guarantee became payable or was not applied in accordance with this Act or the regulations, except that, where the Minister establishes that the person assessed has made any misrepresentation that is attributable to neglect, carelessness or wilful default, or has committed any fraud, in making a return or in supplying any information under this Act or the regulations or in omitting to disclose any information, then the Minister may, at any time he considers reasonable, assess or reassess any tax or tax guarantee payable under this Act or the regulations or that has not been applied in accordance with this Act or the regulations.

Erroneous
refunds

(5) The Minister may assess any person who has received a refund under this Act or the regulations and who is not entitled to such refund, and such assessment shall be for the amount of the refund to which the person is not entitled and shall be accompanied by a brief statement in writing of the grounds upon which the person assessed is claimed not to be entitled to the amount claimed in the assessment.

Disallowance
of refund

(6) Where a person has, in accordance with this Act or the regulations, applied for a refund under this Act or the regulations, and his claim is in whole or in part refused, the Minister shall cause to be served on such person a statement of disallowance in such form as the Minister shall prescribe, and the statement shall specify the amount of the disallowance and the reasons therefor.

Notice
of service

(7) Where the Minister has made an assessment under this section or has issued a statement of disallowance, he shall deliver a notice of assessment or the statement of disallowance by personal service or shall send such notice of assessment or statement of disallowance by mail or registered mail to the person so assessed or to whom the statement of disallowance is issued at such person's last known address, or where such person has more than one address one of which is in Ontario, the notice or statement shall be sent to his address in Ontario, and the amount of any assessment shall, subject to subsection 8, be remitted to the Minister

by the person assessed within thirty days from the date of personal service or mailing of the notice of assessment.

(8) Where the Minister has made an assessment under ^{Idem} this section, the notice of assessment may provide that the amount assessed is payable forthwith.

(9) Liability for tax or a tax guarantee payable under this Act or the regulations is not affected by an incorrect ^{Continuation of liability for tax} or incomplete assessment or by the fact that no assessment has been made.

(10) The Minister is not bound by a return or by any information delivered by or on behalf of any person under this Act or the regulations, and may, notwithstanding that any return or information has been delivered, assess the tax or tax guarantee payable under this Act. ^{Minister not bound by returns}

(11) An assessment, subject to being varied or vacated on an objection or appeal and subject to a reassessment, shall be deemed to be valid and binding notwithstanding any error, defect or omission therein or in any proceeding under this Act relating thereto. ^{Assessment valid and binding}

(12) The amount of any assessment is payable within the time required by the notice of assessment whether or not an objection or appeal from the assessment is made or taken. ^{Idem}

10.—(1) Where a person objects to an assessment made against him or a statement served on him under section 9, he may, within ninety days of the day of mailing of the statement or notice of assessment, serve on the Minister a notice of objection in duplicate in the prescribed form setting out the reasons for the objection and all relevant facts. ^{Notice of objection}

(2) A notice of objection under this section shall be served by being sent by registered mail addressed to the Minister. ^{Service}

(3) Upon receipt of the notice of objection, the Minister shall, with all due dispatch, reconsider the assessment or statement objected to and vacate, confirm or vary the assessment or statement, or serve a fresh statement, and he shall thereupon notify the person making the objection of his action by registered letter. ^{Reconsideration}

11.—(1) After the Minister has given the notification required by subsection 3 of section 10, a person who has served notice of objection under section 10 may appeal to ^{Appeal}

the Supreme Court to have the assessment vacated or varied or reassessed, but no appeal under this section shall be instituted after the expiration of ninety days from the day notice has been mailed to such person under subsection 3 of section 10 and an appeal under this section shall not be made to the Divisional Court.

Appeal, how
instituted

(2) An appeal to the Supreme Court shall be instituted by serving on the Minister a notice of appeal in duplicate in the prescribed form and by filing a copy thereof with the Registrar of the Supreme Court or with the local registrar of the Supreme Court for the county or district in which the person appealing resides or has his place of business.

Service

(3) A notice of appeal shall be served on the Minister by being sent by registered mail addressed to the Minister.

Content of
notice of
appeal

(4) The person appealing shall set out in the notice of appeal a statement of the allegations of fact and the statutory provisions and reasons that he intends to submit in supporting his appeal.

Reply to
notice of
appeal

(5) After the service on him of a notice of appeal under this section, the Minister shall with all due dispatch serve on the person appealing and file in the Supreme Court where the notice of appeal was filed a reply to the notice of appeal admitting or denying the facts alleged and containing a statement of such further allegations of fact and of such statutory provisions and reasons as he intends to rely on.

Matter
deemed
action

(6) Upon the filing of the material referred to in subsection 5, the matter shall be deemed to be an action in the court.

Disposition
of appeal

(7) The court may dispose of the appeal by,

(a) dismissing it;

(b) allowing it; or

(c) allowing it, and

(i) vacating the assessment,

(ii) varying the assessment,

(iii) restoring the original assessment, or

(iv) referring the assessment back to the Minister for reconsideration and reassessment.

(8) The court may, in delivering judgment disposing ^{Idem} of an appeal, order payment or refund of any tax or tax guarantee by the appellant or by the Treasurer, as the case may be, and may make such order as to cost as is considered proper.

(9) The practice and procedure of the Supreme Court, ^{Procedure} including the right of appeal and the practice and procedure relating to appeals, apply to every matter that is deemed to be an action under subsection 6, and every judgment and order given or made in every such action may be enforced in the same manner and by the like process as a judgment or order given or made in an action commenced in the court.

(10) No assessment shall be vacated or varied on appeal ^{Irregularities} by reason only of an irregularity, informality, omission or error on the part of any person in the observance of any directory provision of this Act.

(11) The time within which a notice of objection under subsection 1 of section 10 or a notice of appeal under subsection 1 of this section is to be served may be extended by the Minister if application for extension is made before expiration of the time for service of the notice of objection or notice of appeal, as the case may be. ^{Extension of time}

12.—(1) Upon default of payment of an amount assessed ^{Recovery of amounts payable} under section 9,

- (a) the Minister may bring an action for recovery thereof in any court in which a debt or money demand of a similar amount may be collected, and every such action shall be brought and executed in and by the name of the Minister or his name of office and may be continued by his successor in office as if no change had occurred and shall be tried without a jury; or
- (b) the Minister may issue a warrant directed to the sheriff of any county or district in which any property of a person liable to make a payment or remittance under this Act is located or situate for the amount assessed against him under section 9 and owing by him, together with interest thereon from the date of the issue of the warrant and the costs and expenses of the sheriff, and such warrant has the same force and effect as a writ of execution issued out of the Supreme Court on a judgment in favour of the Crown.

Compliance
to be
proved by
affidavit

(2) For the purpose of any proceeding taken under this Act, the facts necessary to establish compliance on the part of the Minister with this Act or the regulations as well as the failure of any person to comply therewith shall, unless evidence to the contrary satisfactory to the court is adduced, be sufficiently proved in any court of law by affidavit of the Minister or of any officer of the Ministry.

Remedies
for recovery
of amounts
owing

(3) The use of any of the remedies provided by this Act does not bar or affect any of the other remedies herein provided, and the remedies provided by this Act for the recovery and enforcement of the payment of any amount payable under this Act or the regulations are in addition to any other remedies existing by law, and no action or other proceeding taken in any way prejudices, limits or affects any lien, charge or priority existing under this Act or at law in favour of Her Majesty in right of Ontario.

Garnishment

13.—(1) When the Minister has knowledge or suspects that a person is or is about to become indebted or liable to make any payment to a person liable to make a payment or remittance to the Treasurer or the Minister under this Act, he may, by registered letter or by a letter served personally, require the first-named person to pay the moneys otherwise payable to the second-named person in whole or in part to the Treasurer on account of the liability under this Act.

Idem

(2) The receipt of the Treasurer for moneys paid as required under this section is a good and sufficient discharge of the original liability to the extent of the payment.

Liability
of debtor

(3) Every person who has discharged any liability to a person liable to make a payment or remittance to the Treasurer or the Minister under this Act without complying with the requirements under this section is liable to pay to the Treasurer an amount equal to the liability discharged or the amount he was required under this section to pay to the Treasurer, whichever is the lesser.

Service of
garnishee

(4) Where a person who is or is about to become indebted or liable to make a payment to a person liable to make a payment or remittance to the Treasurer or to the Minister under this Act carries on business under a name and style other than his own name, the registered or other letter under subsection 1 may be addressed to the name or style under which he carries on business and, in the case of personal service, shall be deemed to have been validly served if it has been left with an adult person employed at the place of business of the addressee.

(5) Where persons who are or are about to become indebted or liable to make a payment to a person liable to make a payment or remittance to the Treasurer or to the Minister under this Act carry on business in partnership, the registered or other letter under subsection 1 may be addressed to the partnership name and, in the case of personal service, shall be deemed to have been validly served if it has been served on one of the partners or left with an adult person employed at the place of business of the partnership.

(6) Subject to the provisions of *The Wages Act*, where the Minister has under this section required an employer to pay to the Treasurer on account of an employee's liability under this Act moneys otherwise payable by the employer to the employee as remuneration, the requirement is applicable to all future payments by the employer to the employee in respect of remuneration until the liability under this Act is satisfied and operates to require payments to the Treasurer out of each payment of remuneration of such amount as may be stipulated by the Minister in the registered letter or letter served personally.

Idem
Garnishment
of wages
R.S.O. 1970,
c. 486

(7) Where any person, without reasonable excuse, has failed to remit to the Treasurer the moneys as required under this section, the Minister may apply before a judge of the Supreme Court for an order directing such person to remit the moneys which he has failed to remit.

Failure
to remit

14.—(1) In this section, "accountable person" means any person who is a collector, an agent of the Minister under this Act, a consumer, a person required to register with the Minister under section 6, or a manufacturer or distributor of cans.

Definition

(2) Any person thereunto authorized by the Minister for any purpose related to the administration or enforcement of this Act may at all reasonable times enter into any premises where any business is carried on by an accountable person, where any can or canned soft drink is kept, or where anything is done in connection with any such business or where any books or records of any accountable person are or should be kept, and may,

Investi-
gations

- (a) audit or examine the books, records, accounts, vouchers, letters, telegrams, or other documents that relate or may relate to the sale of any canned soft drink, the manufacture or distribution of cans, or to the amount of tax or of any tax guarantee payable under this Act;

- (b) examine any cans or canned soft drink or any property, process or matter an examination of which may, in his opinion, assist him in determining the accuracy of any information that was or should have been furnished to the Minister or the amount of any tax or tax guarantee payable under this Act;
- (c) require any accountable person, or if such accountable person is a partnership or corporation, require a partner or the president, manager, secretary or any director, agent or representative thereof or any other person on the premises of such accountable person to give him all reasonable assistance with his audit or examination and to answer all questions relating to the audit or examination either orally or, if he so requires, in writing, on oath or by statutory declaration, and for that purpose require such person or any accountable person to attend at the premises with him; and
- (d) if during the course of an audit or examination it appears to him that there has been a contravention of this Act or the regulations, seize and take away any of the records, books, accounts, vouchers, letters, telegrams and other documents and retain them until they are produced in any court proceedings.

Idem

(3) The Minister may, for any purpose related to the administration or enforcement of this Act or the regulations, by registered letter or by a demand served personally, require from any accountable person, or if such accountable person is a partnership or corporation, from a partner or the president, manager, secretary or any director, agent or representative thereof,

- (a) any information concerning cans or canned soft drinks or the sale or distribution thereof; or
- (b) production, or production on oath, of any books, letters, accounts, invoices, statements, financial or otherwise, or other documents or information,

within such reasonable time as is stipulated therein.

Idem

(4) The Minister may, for any purpose related to the administration or enforcement of this Act or the regulations, by registered letter or by a demand served personally, require from any person, partnership, syndicate, trust or corporation holding any amount for or paying or liable to pay

any amount to an accountable person, other than a manufacturer or distributor of cans, production, or production on oath, of any books, letters, accounts, invoices, statements, financial or otherwise, or other documents or information within such reasonable time as is stipulated therein.

(5) The Minister may, for any purpose related to the ^{Idem} administration or enforcement of this Act or the regulations, with the approval of a judge of the Supreme Court, which approval the judge is hereby empowered to give upon *ex parte* application, authorize in writing an officer of the Ministry, together with such members of the Ontario Provincial Police force or other peace officers as he calls upon to assist him and such other persons as are named therein, to enter and search, if necessary by force, any building, receptacle or place for documents, books, records, papers or things that may afford evidence as to the contravention of any provision of this Act or the regulations and to seize and take away any such documents, books, records, papers or things and retain them until they are produced in any court proceedings.

(6) The Minister may, by registered letter or by a demand ^{Documents to prove liability to tax or tax guarantee} served personally, require the production under oath or otherwise by any person, partnership, syndicate, trust or corporation, or by his or its agent or officer, of any letters, accounts, invoices, statements, financial or otherwise, books or other documents in the possession or in the control of such person, partnership, syndicate, trust or corporation or of his or its agent or officer for the purpose of determining what tax or tax guarantee, if any, is or may be payable and what person is responsible for its payment, and production thereof shall be made within such reasonable time as is stipulated in such registered letter or demand.

(7) Where a book, record or other document has been ^{Copies} seized, examined or produced under this section, the person by whom it is seized or examined or to whom it is produced, or any officer of the Ministry, may make or cause to be made one or more copies thereof, and a document purporting to be certified by the Minister or a person thereunto authorized by the Minister to be a copy made pursuant to this section is admissible in evidence and has the same probative force as the original document would have had if it had been proved in the ordinary way.

(8) No person shall hinder or molest or interfere with ^{Compliance} any person doing anything that he is authorized by this section to do or shall prevent or attempt to prevent any person doing any such thing.

Idem

(9) Notwithstanding any other law to the contrary, every person and every accountable person shall, unless he is unable to do so, do everything he is required by this section to do.

Adminis-
tration of
oaths

(10) Declarations or affidavits in connection with statements of information submitted pursuant to this section may be taken before any person having authority to administer an oath or before any person specially authorized for that purpose by the Lieutenant Governor in Council, but any person so specially authorized shall not charge any fee therefor.

Offence

15.—(1) Every person who wilfully contravenes or negligently fails to comply with any provision of this Act or the regulations or who, without lawful excuse, refuses to furnish to the Minister any information, statement, return or report required by or under this Act or the regulations is guilty of an offence and on summary conviction is liable to a fine of,

(a) not less than \$50 for each of the first five days during which the offence continues and \$100 for each day thereafter during which the offence continues; and

(b) not more than \$5,000.

Idem

(2) Every person who is required to remit to the Minister any tax or tax guarantee payable under this Act and who fails to remit the tax or tax guarantee is guilty of an offence and on summary conviction is liable to a fine of not less than \$100 and an additional amount of not less than the tax or tax guarantee, as determined under subsection 3, that should have been remitted.

Certificate

(3) The Minister shall determine the amount of the tax or tax guarantee referred to in subsection 2 from such information as is available to him, and shall issue a certificate as to the amount, but except where the Minister considers that there has been deliberate evasion of this Act or the regulations, he shall not take into account a period of more than three years in determining the amount of the tax or tax guarantee referred to in the certificate.

Proof of
certificate

(4) In any prosecution under subsection 2, a certificate that is signed or that purports to be signed by the Minister or by the Deputy Minister of Revenue and that states the amount of tax is *prima facie* evidence of the amount of the tax or tax guarantee referred to in subsection 2 and of the authority of the person giving or making the certificate without any proof of appointment or signature.

(5) Every person who contravenes section 14 is guilty of an offence and on summary conviction is liable to a fine of \$25 for each day during which the default continues. Contravening
s. 14

(6) Every person who contravenes any of the provisions of this Act or the regulations for which no other penalty is provided is guilty of an offence and on summary conviction is liable for a first offence to a fine of not less than \$25 and not more than \$200, and for any subsequent offence to a fine of not less than \$100 and not more than \$1,000. General

(7) Every person who has, Offences

- (a) knowingly made, participated in, assented to or acquiesced in the making of false or deceptive statements required by or under this Act or the regulations;
- (b) to evade payment of the tax or tax guarantee payable under this Act, destroyed, altered, mutilated, secreted or otherwise disposed of any record, document or thing; or
- (c) wilfully, in any manner, evaded or attempted to evade compliance with this Act or the payment of the tax or tax guarantee payable under this Act or the regulations,

is guilty of an offence and on summary conviction, in addition to any penalty otherwise provided by this Act, is liable to a fine of not less than \$200 and not more than an amount equal to double the amount of the tax or tax guarantee that should have been remitted or that was sought to be evaded, or to imprisonment for a term of not more than two years, or to both.

16.—(1) Any information in respect of an offence under this Act may be for one or more than one offence, and no information, warrant, conviction or other proceeding in a prosecution under this Act is objectionable or insufficient by reason of the fact that it relates to two or more offences. Information
for more
than one
offence

(2) Neither the application of any provision of section 15 or this section nor the enforcement of any penalty under this Act suspends or affects any remedy for the recovery of any tax or tax guarantee payable under this Act or the regulations. Tax not
affected

(3) Any officer, director or agent of a corporation who directed, authorized, assented to, acquiesced in or partici- Offences by
officers of
corporations

pated in the commission of an act or the omission to do anything that is an offence under this Act for which the corporation would be liable for prosecution is guilty of an offence and on summary conviction is liable to the punishment provided for the offence whether or not the corporation has been prosecuted or convicted.

Limitation (4) An information in respect of an offence under this Act shall be laid within six years of the time when the matter of the information arose.

Default in paying fine (5) Where a fine provided for in this Act is imposed on any person as the result of his conviction for the commission of an offence against this Act, a sentence of imprisonment for not more than one year in default of payment of the fine may also be imposed on such person.

Communication of information **17.**—(1) Except as authorized by this section, no person employed by the Government of Ontario shall,

(a) knowingly communicate or knowingly allow to be communicated to any person any information obtained by or on behalf of the Minister for the purposes of this Act; or

(b) knowingly allow any person to inspect or to have access to any book, record, writing, return or other document obtained by or on behalf of the Minister for the purposes of this Act.

Officials not compellable as witnesses (2) Notwithstanding any other Act, but subject to subsection 3, no person employed by the Government of Ontario shall be required, in connection with any legal proceedings,

(a) to give evidence relating to any information obtained by or on behalf of the Minister for the purposes of this Act; or

(b) to produce any book, record, writing, return or other document obtained by or on behalf of the Minister for the purposes of this Act.

Exceptions for legal proceedings (3) Subsections 1 and 2 do not apply in respect of,

(a) criminal proceedings under any Act of the Parliament of Canada; or

(b) proceedings in respect of the trial of any person for an offence under an Act of the Legislature; or

- (c) proceedings relating to the administration or enforcement of this Act or the collection or assessment of tax or a tax guarantee.

(4) A person employed by the Government of Ontario may, in the course of his duties in connection with the administration or enforcement of this Act, Exception
for internal
adminis-
tration

- (a) communicate or allow to be communicated to an official or authorized person employed by the Government of Ontario in the administration and enforcement of any laws relating to the raising of revenues for provincial purposes any information obtained by or on behalf of the Minister for the purposes of this Act; and

- (b) allow an official or authorized person employed by the Government of Ontario in the administration or enforcement of any laws relating to the raising of revenues for provincial purposes to inspect or have access to any book, record, writing, return or other document obtained by or on behalf of the Minister for the purposes of this Act.

(5) Notwithstanding any other provision of this Act, the Minister may permit a copy of any book, record, writing, return or other document obtained by him or on his behalf for the purposes of this Act to be given to, Exception
for objection
or appeals,
etc.

- (a) the person from whom the book, record, writing, return or other document was obtained; or

- (b) any person,

- (i) for the purposes of any objection or appeal that has been or may be taken by that person under this Act arising out of any assessment of tax, a tax guarantee, interest or penalties under this Act in connection with which the book, record, writing, return or other document was obtained, or

- (ii) by whom any amount payable under this Act is payable or has been paid,

or the legal representative of any person mentioned in clause *a* or *b* or the agent of any such person authorized in writing in that behalf.

(6) Notwithstanding any other provision of this Act, the Minister may permit information or a copy of any book, Exception
for tax
enforcement
in other
jurisdictions

record, writing, return or other document obtained by him or on his behalf for the purposes of this Act to be given to,

- (a) a minister of the Government of Canada or any officer or employee employed under a minister of the Government of Canada for the purposes of administration of any Act of the Parliament of Canada imposing any tax or duty; or
- (b) a minister of the government of any province of Canada or officer or employee employed under that minister, for the purposes of administering and enforcing an Act of the Legislature of that province imposing any tax or duty,

if the minister of the Government of Canada or the minister of the government of another province, as the case may be, is permitted to give to the Minister information or copies of any book, record, writing, return or other document obtained by or on behalf of the minister of the Government of Canada, or the minister of the government of that other province, as the case may be, in the administration or enforcement of that Act for the purposes of the administration of this Act.

Records
to be
retained

18. Every person who is a collector, an agent of the Minister under this Act, a person required to register with the Minister under section 6, or a person belonging to a class of persons prescribed by the Minister shall keep at his principal place of business records and books of account in such form and containing such information as will enable the accurate determination of the tax or tax guarantee collectable or payable under this Act, and shall retain every such record or book of account, and every account or voucher necessary to verify the information in any such record or book of account for such period as may be prescribed by the Minister.

Regulations

19.—(1) The Minister may make regulations,

- (a) prescribing or determining anything that he is permitted or required by this Act to prescribe or determine;
- (b) prescribing for the purposes of this Act or the regulations the records and information to be kept and maintained by a collector, by a person who is an agent of the Minister under this Act or by any person who is required to register with the Minister under section 6; or

- (c) prescribing any form required by this Act or the regulations or that, in his opinion, will assist in the administration of this Act, and prescribing how and by whom any form shall be completed and what information it shall contain.

(2) The Lieutenant Governor in Council may make regulations, ^{Idem}

- (a) prescribing anything that is required or permitted by this Act to be prescribed;
- (b) authorizing the refund of any tax or tax guarantee and specifying the conditions upon which such refund may be made;
- (c) prescribing the evidence required to establish facts relevant to assessments under this Act;
- (d) requiring any class of persons to make information returns respecting any class of information required in connection with assessments under this Act;
- (e) requiring a person who is, by a regulation made under clause *d*, required to make an information return to supply a copy of the information return or of a prescribed portion thereof to the person or persons in respect of whose liability under this Act the information return or portion thereof relates;
- (f) authorizing a designated officer or class of officers employed by the Government of Ontario to exercise powers or perform duties of the Minister under this Act;
- (g) prescribing any rate of interest that is to be prescribed;
- (h) providing for the payment of interest on any refund, and prescribing the rate of such interest and the method by which it is to be calculated;
- (i) defining any word or expression used in this Act that has not already been expressly defined in this Act;
- (j) prescribing the remuneration, if any, to be paid to the persons who collect the tax payable under this Act or who pay or collect any tax guarantee under this Act;

- (*k*) requiring the furnishing of surety bonds by collectors and persons required to register under section 6, and prescribing the form and amount of such bonds;
- (*l*) providing for the accounting for and paying over of any sums of money collected by or payable to any collector or person registered under section 6, or any agent of the Minister, and regulating the time and manner of such accounting and payment;
- (*m*) respecting agreements between the Minister and collectors, and providing for their use;
- (*n*) providing for exemption of cans or classes of cans from the provisions of this Act;
- (*o*) prescribing any container to be a can for the purposes of this Act;
- (*p*) providing for the relief or relaxation, in special circumstances, of the obligations imposed by this Act;
- (*q*) requiring collectors designated for the purpose of this clause to mark or cause to be marked clearly and conspicuously in such manner as may be prescribed on each canned soft drink to be sold, or intended to be sold, in Ontario such words as may be prescribed to indicate that the canned soft drink is or may be subject to the tax imposed by this Act.

Idem (3) A regulation is, if it so provides, effective with reference to a period before it was filed.

Commence-
ment **20.**—(1) This Act, except sections 1 to 6, comes into force on the day it receives Royal Assent.

Idem (2) Sections 1 and 6 shall be deemed to have come into force on the 28th day of June, 1977.

Idem (3) Section 4 comes into force on the 31st day of July, 1977.

Idem (4) Sections 2, 3 and 5 come into force on the 1st day of August, 1977.

Short title **21.** The short title of this Act is *The Environmental Tax Act, 1977*.

An Act to impose a Tax on Certain
Pollutants of the Environment in
Ontario

1st Reading

June 27th, 1977

2nd Reading

3rd Reading

THE HON. M. SCRIVENER
Minister of Revenue

(Government Bill)

BILL 19

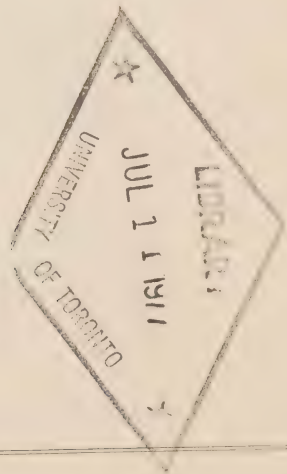
Government Bill

1ST SESSION, 31ST LEGISLATURE, ONTARIO
26 ELIZABETH II, 1977

Government
Publications

An Act to amend The Highway Traffic Act

THE HON. J. W. SNOW
Minister of Transportation and Communications



EXPLANATORY NOTES

The purpose of the Bill is to convert distances and speed rates into metric units. The conversions are not precise but rather have been rounded off to convenient approximations.

SECTION 1.—Subsection 1. The distances set out in section 1 (1) par. 1*a* of the Act in the definition of "built-up area" are being converted so that where "600 feet" appeared, now "200 metres" appears and where "300 feet" appeared, now "100 metres" appears.

BILL 19

1977

An Act to amend The Highway Traffic Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

- 1.—(1) Paragraph 1a of subsection 1 of section 1 of *The Highway Traffic Act*, being chapter 202 of the Revised Statutes of Ontario, 1970, as renumbered by the Statutes of Ontario, 1973, chapter 167, section 1, is repealed and the following substituted therefor:

s. 1 (1), par. 1a,
re-enacted

1a. “built-up area” means the territory contiguous to a highway not within a city, town, village or police village where,

- i. not less than 50 per cent of the frontage upon one side of the highway for a distance of not less than 200 metres is occupied by dwellings, buildings used for business purposes, schools or churches, or
- ii. not less than 50 per cent of the frontage upon both sides of the highway for a distance of not less than 100 metres is occupied by dwellings, buildings used for business purposes, schools or churches, or
- iii. not more than 200 metres of the highway separates any territory described in subparagraph i or ii from any other territory described in subparagraph i or ii,

and signs are displayed as required by the regulations.

s. 1 (1), par. 15c,
subpar. v,
re-enacted

- (2) Subparagraph v of paragraph 15c of subsection 1 of the said section 1, as re-enacted by the Statutes of Ontario, 1975, chapter 78, section 1, is repealed and the following substituted therefor:

v. which does not have sufficient power to enable the bicycle to attain a speed greater than 50 kilometres per hour on level ground within a distance of 2 kilometres from a standing start.

s. 63a (5) (c),
re-enacted

- 2.—(1) Clause c of subsection 5 of section 63a of the said Act, as enacted by the Statutes of Ontario, 1975 (2nd Session), chapter 14, section 1, is repealed and the following substituted therefor:

(c) who is actually engaged in work which requires him to alight from and re-enter a motor vehicle at frequent intervals and who, while engaged in such work, does not drive or travel in that vehicle at a speed exceeding 40 kilometres per hour; or

.

s. 63a (7) (b),
re-enacted

- (2) Clause b of subsection 7 of the said section 63a is repealed and the following substituted therefor:

(b) is actually engaged in work which requires him to alight from and re-enter the motor vehicle at frequent intervals and the motor vehicle does not travel at a speed exceeding 40 kilometres per hour; or

.

s. 82 (1),
amended

- 3.—(1) Subsection 1 of section 82 of the said Act is amended,

- (a) by striking out "50 miles" in the first line of clause a and inserting in lieu thereof "80 kilometres";
- (b) by striking out "30 miles" in the first line of clause b and inserting in lieu thereof "50 kilometres";
- (c) by striking out "20 miles" in clause d and inserting in lieu thereof "30 kilometres"; and
- (d) by striking out "15 miles" in the first line of clause e and inserting in lieu thereof "20 kilometres".

Subsection 2. Paragraph 15c of subsection 1 of section 1 of the Act is a definition of "motor assisted bicycle" as a bicycle which, in part, conforms to the requirements of subparagraph v which, as amended, replaces "thirty miles" with "50 kilometres" and "one mile" with "2 kilometres".

SECTION 2.—Subsection 1. Section 63a of the Act deals with the use of seat belts. Section 63a (5) of the Act exempts certain drivers from the requirement to wear seat belts. The new section 63a (5) (c) of the Act, refers to a speed of "40 kilometres per hour" rather than "25 miles per hour".

Subsection 2. Section 63a (7) (b) of the Act is comparable to section 63a (5) (c) except that it exempts passengers rather than drivers.

SECTION 3. Section 82 (1) of the Act sets out the permitted rates of speed in specified areas. It also provides that the rate of speed permitted may be decreased or increased within specified limits by by-law. Rates of speed referred to in miles per hour are being converted to an approximate equivalent in kilometres per hour.

The existing section 82 (16) of the Act reads as follows:

- (16) *Every person who contravenes any of the provisions of this section or any by-law or regulation made under this section is guilty of an offence and on summary conviction is liable, where the rate of speed at which the motor vehicle was driven,*
- (a) is less than 10 miles per hour over the maximum speed limit, to a fine of \$2 for each mile per hour that the motor vehicle was driven over the maximum speed limit;*
 - (b) is 10 miles per hour or more but less than 20 miles per hour over the maximum speed limit, to a fine of \$3 for each mile per hour that the motor vehicle was driven over the maximum speed limit;*
 - (c) is 20 miles per hour or more but less than 30 miles per hour over the maximum speed limit, to a fine of \$4 for each mile per hour that the motor vehicle was driven over the maximum speed limit; and*
 - (d) is 30 miles per hour or more over the maximum speed limit, to a fine of \$5 for each mile per hour that the motor vehicle was driven over the maximum speed limit.*

- (2) Subsection 2 of the said section 82 is amended by striking ^{s. 82 (2),} amended out "25 miles" in the second line and in the fifth line and inserting in lieu thereof in each instance "40 kilometres".
- (3) Subsection 3 of the said section 82 is amended by striking ^{s. 82 (3),} amended out "30 miles" in the fourth line and inserting in lieu thereof "50 kilometres".
- (4) Subsection 4 of the said section 82 is amended by striking ^{s. 82 (4),} amended out "15 miles" in the fifth line and inserting in lieu thereof "20 kilometres".
- (5) Subsection 5 of the said section 82 is amended by striking ^{s. 82 (5),} amended out "60 miles" in the fifth line and inserting in lieu thereof "100 kilometres".
- (6) Subsection 6 of the said section 82 is amended by striking ^{s. 82 (6),} amended out "50 miles" in the seventh and eighth lines and inserting in lieu thereof "80 kilometres".
- (7) Subsection 7 of the said section 82 is amended by striking ^{s. 82 (7),} amended out "35 miles per hour or more than 60 miles per hour" in the sixth line and inserting in lieu thereof "60 kilometres per hour or more than 100 kilometres per hour".
- (8) Subsection 10 of the said section 82 is amended by ^{s. 82 (10),} amended striking out "50 miles" in the second line and inserting in lieu thereof "80 kilometres".
- (9) Subsection 12 of the said section 82 is amended, ^{s. 82 (12),} amended
 - (a) by striking out "500 feet" in the third line of clause *a* and inserting in lieu thereof "150 metres";
 - and
 - (b) by striking out "25 miles" in the first line of clause *b* and inserting in lieu thereof "40 kilometres".
- (10) Subsection 16 of the said section 82 is repealed and the ^{s. 82 (16),} re-enacted following substituted therefor:

(16) Every person who contravenes any of the provisions ^{Penalty} of this section or any by-law or regulation made under this section is guilty of an offence and on summary conviction is liable, where the rate of speed at which the motor vehicle was driven,

- (a) is less than 20 kilometres per hour over the maximum speed limit, to a fine of \$1.00 for each kilometre per hour that the motor vehicle was driven over the maximum speed limit;

- (b) is 20 kilometres per hour or more but less than 40 kilometres per hour over the maximum speed limit, to a fine of \$1.50 for each kilometre that the motor vehicle was driven over the maximum speed limit;
- (c) is 40 kilometres per hour or more but less than 60 kilometres per hour over the maximum speed limit, to a fine of \$2.00 for each kilometre per hour that the motor vehicle was driven over the maximum speed limit; and
- (d) is 60 kilometres per hour or more over the maximum speed limit, to a fine of \$2.50 for each kilometre that the motor vehicle was driven over the maximum speed limit.

s. 82 (17),
amended

- (11) Subsection 17 of the said section 82 is amended by striking out "30 or more miles" in the third and fourth lines and inserting in lieu thereof "60 or more kilometres".

s. 82a,
enacted

4. The said Act is amended by adding thereto the following section:

Conversion
of rate
of speed
set out in
by-laws

82a. Upon the maximum permitted rate of speed in kilometres per hour being marked on the highways or portions thereof affected, the speed limits established under a by-law passed pursuant to subsection 2, 3, 4, 5, 6, 7 or 12 of section 82 that are expressed as a rate of speed in miles per hour set out in Column 1 of the Table shall be deemed to be the rate of speed in kilometres per hour set opposite thereto in Column 2 of the Table.

TABLE

COLUMN 1	COLUMN 2
Rate of Speed in Miles per Hour	Rate of Speed in Kilometres per Hour
15	20
20	30
25	40
30	50
35	60
40	60
45	70
50	80
55	90
60	100

SECTION 4. Section 82*a* is being enacted to convert speed limits presently set out in miles per hour in existing by-laws passed under the authority of section 82 to kilometres per hour. The new speed limits expressed in kilometres per hour will become effective when the appropriate signs are erected in accordance with the regulations. In the interim, the existing signing will be effective and the speed limits will be enforceable in Canadian units.

The amendment obviates the necessity for each municipality to convert its various speed limit by-laws.

SECTION 5. Section 84 of the Act presently reads as follows:

84. The municipal corporation or other authority having jurisdiction over the highway and, in the case of a provincial highway or a highway in territory without municipal organization, the Lieutenant Governor in Council may make regulations limiting any vehicle passing over a bridge to a speed of not less than 5 miles per hour, and notice of the limit of speed fixed by such regulation, legibly printed, shall be posted up in a conspicuous place at each end of the bridge.

The new subsections being added are self-explanatory.

SECTION 6. Section 92 (3) of the Act is being amended so that a reference to "100 feet" is being converted to "30 metres".

SECTION 7. Section 94 (5) of the Act requires that a signalling device on a vehicle shall be visible for a certain distance. This distance is being converted from "100 feet" to "30 metres".

SECTION 8. Section 95 of the Act, as amended, converts references of "500 feet" to "150 metres" and "100 feet" to "30 metres".

5.—(1) Section 84 of the said Act is amended by striking out ^{s. 84. amended} “5 miles” in the sixth line and inserting in lieu thereof “10 kilometres”.

(2) The said section 84 is further amended by adding ^{s. 84. amended} thereto the following subsections:

(2) The rates of speed set out in a regulation made under subsection 1 that are expressed as a rate of speed in miles per hour set out in Column 1 of the Table shall be deemed to be the rate of speed in kilometres per hour set opposite thereto in Column 2 of the Table. ^{Conversion of rates of speed}

TABLE

COLUMN 1	COLUMN 2
Rate of Speed in Miles per Hour	Rate of Speed in Kilometres per Hour
5	10
10	20
15	20
20	30
25	40
30	50
35	60
40	60
45	70
50	80
55	90

(3) No regulation made under subsection 1 shall apply until a notice as required by subsection 1 setting out the fixed limit of speed in kilometres per hour is posted. ^{Notice to be posted in kilometres per hour}

6. Subsection 3 of section 92 of the said Act is repealed and the following substituted therefor: ^{s. 92 (3). re-enacted}

(3) When a vehicle or street car is approaching a pedestrian crossover and is within 30 metres thereof, the driver of any other vehicle or street car approaching from the rear shall not overtake and pass such vehicle or street car. ^{Passing moving vehicles within 30 metres of pedestrian crossover}

7. Subsection 5 of section 94 of the said Act is amended by striking out “100 feet” in the fourth line and inserting in lieu thereof “30 metres”. ^{s. 94 (5). amended}

8. Section 95 of the said Act is repealed and the following substituted therefor: ^{s. 95. re-enacted}

95. No driver or operator of a vehicle upon a highway shall turn the vehicle so as to proceed in the opposite direction when, ^{U-turns prohibited}

- (a) upon a curve where traffic approaching the vehicle from either direction cannot be seen by the driver of the vehicle within a distance of 150 metres;
- (b) on a railway crossing or within 30 metres of a railway crossing;
- (c) upon an approach to or near the crest of a grade where the vehicle cannot be seen by the driver of another vehicle approaching from either direction within 150 metres; or
- (d) within 150 metres of a bridge, viaduct or tunnel where the driver's view is obstructed within such distance.

s. 96 (17),
amended

- 9.** Subsection 17 of section 96 of the said Act is amended by striking out "nine feet" in the eighth line and inserting in lieu thereof "2.75 metres".

s. 99,
amended

- 10.** Section 99 of the said Act is amended,

- (a) by striking out "100 feet" in the second line of clause *a* and inserting in lieu thereof "30 metres"; and
- (b) by striking out "100 feet" in the first line of clause *b* and inserting in lieu thereof "30 metres".

s. 105 (2),
amended

- 11.** Subsection 2 of section 105 of the said Act is amended by striking out "200 feet" in the third line and inserting in lieu thereof "60 metres".

s. 106 (2),
re-enacted

- 12.** Subsection 2 of section 106 of the said Act is repealed and the following substituted therefor:

Following
fire
department
vehicle

- (2) No driver of a vehicle shall follow a fire department vehicle when responding to an alarm at a distance of less than 150 metres.

s. 110,
amended

- 13.** Section 110 of the said Act is amended by striking out "15 feet" in the fourth line and inserting in lieu thereof "5 metres".

s. 113 (1),
amended

- 14.** Subsection 1 of section 113 of the said Act is amended by striking out "six feet" in the sixth line and inserting in lieu thereof "2 metres".

s. 115 (a) (b),
re-enacted

- 15.** Clauses *a* and *b* of section 115 of the said Act are repealed and the following substituted therefor:

SECTION 9. Section 96 (17) of the Act provides for a signal-light traffic control system and presently states that the lights shall not be less than "nine feet" above the road. The "nine feet" is being converted to "2.75 metres".

SECTION 10. Section 99 of the Act presently reads, in part, as follows:

99. *No vehicle shall be driven or operated to the left of the centre of a roadway designed for one or more lines of traffic in each direction,*

(a) when approaching the crest of a grade or upon a curve in the roadway or within 100 feet of a bridge, viaduct or tunnel where the driver's view is obstructed within such distance as to create a hazard in the event another vehicle might approach from the opposite direction; or

(b) when approaching within 100 feet of a level railway crossing,

SECTION 11. Section 105 (2) of the Act presently reads, in part, as follows:

(2) The driver or operator of a commercial motor vehicle when driving on a highway outside of a city, town or village shall not follow within 200 feet of another commercial motor vehicle,

SECTION 12. The amendment to section 106 (2) of the Act converts "500 feet" to "150 metres".

SECTION 13. Section 110 of the Act presently reads as follows:

110. When the driver of a vehicle is approaching a railway crossing at a time when a clearly visible electrical or mechanical signal device or a flagman is giving warning of the approach of a railway train, he shall stop the vehicle not less than 15 feet from the nearest rail of the railway and shall not proceed until he can do so safely.

SECTION 14. Section 113 of the Act sets out the requirement of stopping a certain distance behind the door of a street car discharging passengers. The distance is being converted from "six feet" to "2 metres".

SECTION 15. Section 115 of the Act requires the use of low beams only in certain situations. Section 115 (a) and (b) are being amended to convert "500 feet" to "150 metres" and "200 feet" to "60 metres".

SECTION 16.—Subsection 1. Section 116 (1) of the Act, exclusive of the clauses, reads as follows:

(1) No person shall park, stand or stop a vehicle on a roadway,

References in clause *b* to “400 feet” are being converted to “125 metres”.

Subsection 2. Section 116 (8) of the Act provides that warning lights on commercial motor vehicles shall be visible for a certain distance. This distance is being converted from “500 feet” to “150 metres”.

Subsection 3. Section 116 (9) of the Act provides that flares on disabled commercial motor vehicles or trailers shall be visible for a certain distance. This distance is being converted from “100 feet” to “30 metres”.

SECTION 17. Section 119 of the Act requires certain vehicles to stop at railway crossings at a distance of not less than “15 feet” from the railway. The distance is being converted to “5 metres”.

SECTION 18. A reference in section 120*a* (2) of the Act to “40 miles” per hour is being converted to “60 kilometres” per hour.

SECTION 19. A reference in section 128*a* (1) of the Act to “fifty miles” per hour is being converted to “80 kilometres” per hour.

- (a) approaching an oncoming vehicle within 150 metres;
or
- (b) following another vehicle within 60 metres, except
when in the act of overtaking and passing.

16.—(1) Clause *b* of subsection 1 of section 116 of the said Act is <sup>s. 116 (1) (b).
re-enacted</sup> repealed and the following substituted therefor:

- (b) when it is not practicable to park, stand or stop the vehicle off the roadway unless a clear view of the vehicle and of the roadway for at least 125 metres beyond the vehicle may be obtained from a distance of at least 125 metres from the vehicle in each direction upon the highway.
- (2) Clause *a* of subsection 8 of the said section 116 is amended <sup>s. 116 (8) (a).
amended</sup> by striking out “500 feet” in the third and fourth lines and inserting in lieu thereof “150 metres”.
- (3) Subsection 9 of the said section 116 is amended by <sup>s. 116 (9).
amended</sup> striking out “100 feet in advance of the vehicle and one at a distance of approximately 100 feet” in the tenth and eleventh lines and inserting in lieu thereof “30 metres in advance of the vehicle and one at a distance of approximately 30 metres”.

17. Section 119 of the said Act is amended by striking out “15 <sup>s. 119.
amended</sup> feet” in the ninth line and inserting in lieu thereof “5 metres”.

18. Subsection 2 of section 120*a* of the said Act, as enacted by <sup>s. 120*a* (2).
re-enacted</sup> the Statutes of Ontario, 1976, chapter 37, section 17, is repealed and the following substituted therefor:

(2) A school crossing guard about to direct children <sup>School
crossing
guard shall
display
sign</sup> across a highway with a speed limit not in excess of 60 kilometres per hour shall, prior to entering the roadway, display a school crossing stop sign in an upright position so that it is visible to vehicular traffic approaching from each direction.

19. Subsection 1 of section 128*a* of the said Act, as enacted by <sup>s. 128*a* (1).
re-enacted</sup> the Statutes of Ontario, 1973, chapter 167, section 9, is repealed and the following substituted therefor:

(1) The council of a municipality may by by-law prohibit <sup>Prohibiting
commercial
vehicles in
left lane</sup> the operation of a commercial motor vehicle other than a bus in the left lane of any highway under its jurisdiction

that has three or more lanes for traffic in each direction and on which the maximum speed limit is 80 kilometres per hour or more.

Commence-
ment

20. This Act comes into force on the 1st day of September, 1977.

Short title

21. The short title of this Act is *The Highway Traffic Amendment Act, 1977*.

An Act to amend
The Highway Traffic Act

1st Reading

June 27th, 1977

2nd Reading

3rd Reading

THE HON. J. W. SNOW
Minister of Transportation and
Communications

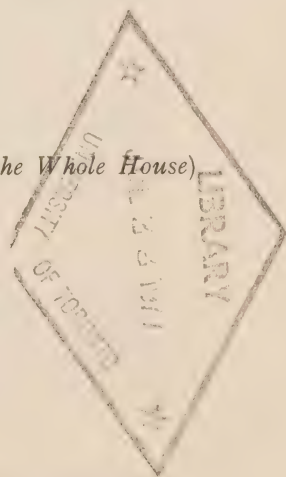
(Government Bill)

1ST SESSION, 31ST LEGISLATURE, ONTARIO
26 ELIZABETH II, 1977

An Act to amend The Highway Traffic Act

THE HON. J. W. SNOW
Minister of Transportation and Communications

(Reprinted as amended by the Committee of the Whole House)



TORONTO

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EXPLANATORY NOTES

The purpose of the Bill is to convert distances and speed rates into metric units. The conversions are not precise but rather have been rounded off to convenient approximations.

SECTION 1.—Subsection 1. The distances set out in section 1 (1) par. 1*a* of the Act in the definition of “built-up area” are being converted so that where “600 feet” appeared, now “200 metres” appears and where “300 feet” appeared, now “100 metres” appears.

BILL 19

1977

An Act to amend The Highway Traffic Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

- 1.—(1) Paragraph 1a of subsection 1 of section 1 of *The Highway Traffic Act*, being chapter 202 of the Revised Statutes of Ontario, 1970, as renumbered by the Statutes of Ontario, 1973, chapter 167, section 1, is repealed and the following substituted therefor:

s. 1 (1). par. 1a.
re-enacted

1a. "built-up area" means the territory contiguous to a highway not within a city, town, village or police village where,

- i. not less than 50 per cent of the frontage upon one side of the highway for a distance of not less than 200 metres is occupied by dwellings, buildings used for business purposes, schools or churches, or
- ii. not less than 50 per cent of the frontage upon both sides of the highway for a distance of not less than 100 metres is occupied by dwellings, buildings used for business purposes, schools or churches, or
- iii. not more than 200 metres of the highway separates any territory described in subparagraph i or ii from any other territory described in subparagraph i or ii,

and signs are displayed as required by the regulations.

s. 1 (1), par. 15c,
subpar. v,
re-enacted

- (2) Subparagraph v of paragraph 15c of subsection 1 of the said section 1, as re-enacted by the Statutes of Ontario, 1975, chapter 78, section 1, is repealed and the following substituted therefor:

v. which does not have sufficient power to enable the bicycle to attain a speed greater than 50 kilometres per hour on level ground within a distance of 2 kilometres from a standing start.

s. 63a (5) (c),
re-enacted

- 2.—(1) Clause c of subsection 5 of section 63a of the said Act, as enacted by the Statutes of Ontario, 1975 (2nd Session), chapter 14, section 1, is repealed and the following substituted therefor:

(c) who is actually engaged in work which requires him to alight from and re-enter a motor vehicle at frequent intervals and who, while engaged in such work, does not drive or travel in that vehicle at a speed exceeding 40 kilometres per hour; or

s. 63a (7) (b),
re-enacted

- (2) Clause b of subsection 7 of the said section 63a is repealed and the following substituted therefor:

(b) is actually engaged in work which requires him to alight from and re-enter the motor vehicle at frequent intervals and the motor vehicle does not travel at a speed exceeding 40 kilometres per hour; or

s. 82 (1),
amended

- 3.—(1) Subsection 1 of section 82 of the said Act is amended,

- (a) by striking out "50 miles" in the first line of clause a and inserting in lieu thereof "80 kilometres";
- (b) by striking out "30 miles" in the first line of clause b and inserting in lieu thereof "50 kilometres";
- (c) by striking out "20 miles" in clause d and inserting in lieu thereof "30 kilometres"; and
- (d) by striking out "15 miles" in the first line of clause e and inserting in lieu thereof "20 kilometres".

Subsection 2. Paragraph 15c of subsection 1 of section 1 of the Act is a definition of "motor assisted bicycle" as a bicycle which, in part, conforms to the requirements of subparagraph v which, as amended, replaces "thirty miles" with "50 kilometres" and "one mile" with "2 kilometres".

SECTION 2.—Subsection 1. Section 63a of the Act deals with the use of seat belts. Section 63a (5) of the Act exempts certain drivers from the requirement to wear seat belts. The new section 63a (5) (c) of the Act, refers to a speed of "40 kilometres per hour" rather than "25 miles per hour".

Subsection 2. Section 63a (7) (b) of the Act is comparable to section 63a (5) (c) except that it exempts passengers rather than drivers.

SECTION 3. Section 82 (1) of the Act sets out the permitted rates of speed in specified areas. It also provides that the rate of speed permitted may be decreased or increased within specified limits by by-law. Rates of speed referred to in miles per hour are being converted to an approximate equivalent in kilometres per hour.

The existing section 82 (16) of the Act reads as follows:

- (16) *Every person who contravenes any of the provisions of this section or any by-law or regulation made under this section is guilty of an offence and on summary conviction is liable, where the rate of speed at which the motor vehicle was driven,*
- (a) is less than 10 miles per hour over the maximum speed limit, to a fine of \$2 for each mile per hour that the motor vehicle was driven over the maximum speed limit;*
 - (b) is 10 miles per hour or more but less than 20 miles per hour over the maximum speed limit, to a fine of \$3 for each mile per hour that the motor vehicle was driven over the maximum speed limit;*
 - (c) is 20 miles per hour or more but less than 30 miles per hour over the maximum speed limit, to a fine of \$4 for each mile per hour that the motor vehicle was driven over the maximum speed limit; and*
 - (d) is 30 miles per hour or more over the maximum speed limit, to a fine of \$5 for each mile per hour that the motor vehicle was driven over the maximum speed limit.*

- (2) Subsection 2 of the said section 82 is amended by striking <sup>s. 82 (2),
amended</sup> out "25 miles" in the second line and in the fifth line and inserting in lieu thereof in each instance "40 kilometres".
- (3) Subsection 3 of the said section 82 is amended by striking <sup>s. 82 (3),
amended</sup> out "30 miles" in the fourth line and inserting in lieu thereof "50 kilometres".
- (4) Subsection 4 of the said section 82 is amended by striking <sup>s. 82 (4),
amended</sup> out "15 miles" in the fifth line and inserting in lieu thereof "20 kilometres".
- (5) Subsection 5 of the said section 82 is amended by striking <sup>s. 82 (5),
amended</sup> out "60 miles" in the fifth line and inserting in lieu thereof "100 kilometres".
- (6) Subsection 6 of the said section 82 is amended by striking <sup>s. 82 (6),
amended</sup> out "50 miles" in the seventh and eighth lines and inserting in lieu thereof "80 kilometres".
- (7) Subsection 7 of the said section 82 is amended by striking <sup>s. 82 (7),
amended</sup> out "35 miles per hour or more than 60 miles per hour" in the sixth line and inserting in lieu thereof "60 kilometres per hour or more than 100 kilometres per hour".
- (8) Subsection 10 of the said section 82 is amended by <sup>s. 82 (10),
amended</sup> striking out "50 miles" in the second line and inserting in lieu thereof "80 kilometres".
- (9) Subsection 12 of the said section 82 is amended, <sup>s. 82 (12),
amended</sup>
 - (a) by striking out "500 feet" in the third line of clause *a* and inserting in lieu thereof "150 metres";
 - and
 - (b) by striking out "25 miles" in the first line of clause *b* and inserting in lieu thereof "40 kilometres".
- (10) Subsection 16 of the said section 82 is repealed and the <sup>s. 82 (16),
re-enacted</sup> following substituted therefor:

(16) Every person who contravenes any of the provisions ^{Penalty} of this section or any by-law or regulation made under this section is guilty of an offence and on summary conviction is liable, where the rate of speed at which the motor vehicle was driven,

- (a) is less than 20 kilometres per hour over the maximum speed limit, to a fine of \$1.25 for each kilometre per hour that the motor vehicle was driven over the maximum speed limit;

(b) is 20 kilometres per hour or more but less than 40 kilometres per hour over the maximum speed limit, to a fine of \$1.75 for each kilometre that the motor vehicle was driven over the maximum speed limit;

(c) is 40 kilometres per hour or more but less than 60 kilometres per hour over the maximum speed limit, to a fine of \$2.50 for each kilometre per hour that the motor vehicle was driven over the maximum speed limit; and

(d) is 60 kilometres per hour or more over the maximum speed limit, to a fine of \$3.25 for each kilometre that the motor vehicle was driven over the maximum speed limit.

s. 82 (17),
amended

(11) Subsection 17 of the said section 82 is amended by striking out "30 or more miles" in the third and fourth lines and inserting in lieu thereof "60 or more kilometres".

s. 82a,
enacted

4. The said Act is amended by adding thereto the following section:

Conversion
of rate
of speed
set out in
by-laws

82a. Upon the maximum permitted rate of speed in kilometres per hour being marked on the highways or portions thereof affected, the speed limits established under a by-law passed pursuant to subsection 2, 3, 4, 5, 6, 7 or 12 of section 82 that are expressed as a rate of speed in miles per hour set out in Column 1 of the Table shall be deemed to be the rate of speed in kilometres per hour set opposite thereto in Column 2 of the Table.

TABLE

COLUMN 1	COLUMN 2
Rate of Speed in Miles per Hour	Rate of Speed in Kilometres per Hour
15	20
20	30
25	40
30	50
35	60
40	60
45	70
50	80
55	90
60	100

SECTION 4. Section 82a is being enacted to convert speed limits presently set out in miles per hour in existing by-laws passed under the authority of section 82 to kilometres per hour. The new speed limits expressed in kilometres per hour will become effective when the appropriate signs are erected in accordance with the regulations. In the interim, the existing signing will be effective and the speed limits will be enforceable in Canadian units.

The amendment obviates the necessity for each municipality to convert its various speed limit by-laws.

SECTION 5. Section 84 of the Act presently reads as follows :

84. The municipal corporation or other authority having jurisdiction over the highway and, in the case of a provincial highway or a highway in territory without municipal organization, the Lieutenant Governor in Council may make regulations limiting any vehicle passing over a bridge to a speed of not less than 5 miles per hour, and notice of the limit of speed fixed by such regulation, legibly printed, shall be posted up in a conspicuous place at each end of the bridge.

The new subsections being added are self-explanatory.

SECTION 6. Section 92 (3) of the Act is being amended so that a reference to "100 feet" is being converted to "30 metres".

SECTION 7. Section 94 (5) of the Act requires that a signalling device on a vehicle shall be visible for a certain distance. This distance is being converted from "100 feet" to "30 metres".

SECTION 8. Section 95 of the Act, as amended, converts references of "500 feet" to "150 metres" and "100 feet" to "30 metres".

5.—(1) Section 84 of the said Act is amended by striking out ^{s. 84.} “5 miles” in the sixth line and inserting in lieu thereof ^{amended} “10 kilometres”.

(2) The said section 84 is further amended by adding ^{s. 84.} thereto the following subsections: ^{amended}

(2) The rates of speed set out in a regulation made under subsection 1 that are expressed as a rate of speed in miles per hour set out in Column 1 of the Table shall be deemed to be the rate of speed in kilometres per hour set opposite thereto in Column 2 of the Table. ^{Conversion of rates of speed}

TABLE

COLUMN 1	COLUMN 2
Rate of Speed in Miles per Hour	Rate of Speed in Kilometres per Hour
5	10
10	20
15	20
20	30
25	40
30	50
35	60
40	60
45	70
50	80
55	90

(3) No regulation made under subsection 1 shall apply until a notice as required by subsection 1 setting out the fixed limit of speed in kilometres per hour is posted. ^{Notice to be posted in kilometres per hour}

6. Subsection 3 of section 92 of the said Act is repealed and the following substituted therefor: ^{s. 92 (3). re-enacted}

(3) When a vehicle or street car is approaching a pedestrian crossover and is within 30 metres thereof, the driver of any other vehicle or street car approaching from the rear shall not overtake and pass such vehicle or street car. ^{Passing moving vehicles within 30 metres of pedestrian crossover}

7. Subsection 5 of section 94 of the said Act is amended by striking out “100 feet” in the fourth line and inserting in lieu thereof “30 metres”. ^{s. 94 (5). amended}

8. Section 95 of the said Act is repealed and the following substituted therefor: ^{s. 95. re-enacted}

95. No driver or operator of a vehicle upon a highway shall turn the vehicle so as to proceed in the opposite direction when, ^{U-turns prohibited}

- (a) upon a curve where traffic approaching the vehicle from either direction cannot be seen by the driver of the vehicle within a distance of 150 metres;
- (b) on a railway crossing or within 30 metres of a railway crossing;
- (c) upon an approach to or near the crest of a grade where the vehicle cannot be seen by the driver of another vehicle approaching from either direction within 150 metres; or
- (d) within 150 metres of a bridge, viaduct or tunnel where the driver's view is obstructed within such distance.

s. 96 (17),
amended

- 9.** Subsection 17 of section 96 of the said Act is amended by striking out "nine feet" in the eighth line and inserting in lieu thereof "2.75 metres".

s. 99,
amended

- 10.** Section 99 of the said Act is amended,

- (a) by striking out "100 feet" in the second line of clause *a* and inserting in lieu thereof "30 metres"; and
- (b) by striking out "100 feet" in the first line of clause *b* and inserting in lieu thereof "30 metres".

s. 105 (2),
amended

- 11.** Subsection 2 of section 105 of the said Act is amended by striking out "200 feet" in the third line and inserting in lieu thereof "60 metres".

s. 106 (2),
re-enacted

- 12.** Subsection 2 of section 106 of the said Act is repealed and the following substituted therefor:

Following
fire
department
vehicle

- (2) No driver of a vehicle shall follow a fire department vehicle when responding to an alarm at a distance of less than 150 metres.

s. 110,
amended

- 13.** Section 110 of the said Act is amended by striking out "15 feet" in the fourth line and inserting in lieu thereof "5 metres".

s. 113 (1),
amended

- 14.** Subsection 1 of section 113 of the said Act is amended by striking out "six feet" in the sixth line and inserting in lieu thereof "2 metres".

s. 115 (a) (b),
re-enacted

- 15.** Clauses *a* and *b* of section 115 of the said Act are repealed and the following substituted therefor:

SECTION 9. Section 96 (17) of the Act provides for a signal-light traffic control system and presently states that the lights shall not be less than "nine feet" above the road. The "nine feet" is being converted to "2.75 metres".

SECTION 10. Section 99 of the Act presently reads, in part, as follows:

99. *No vehicle shall be driven or operated to the left of the centre of a roadway designed for one or more lines of traffic in each direction,*

(a) when approaching the crest of a grade or upon a curve in the roadway or within 100 feet of a bridge, viaduct or tunnel where the driver's view is obstructed within such distance as to create a hazard in the event another vehicle might approach from the opposite direction; or

(b) when approaching within 100 feet of a level railway crossing,

SECTION 11. Section 105 (2) of the Act presently reads, in part, as follows:

(2) The driver or operator of a commercial motor vehicle when driving on a highway outside of a city, town or village shall not follow within 200 feet of another commercial motor vehicle,

SECTION 12. The amendment to section 106 (2) of the Act converts "500 feet" to "150 metres".

SECTION 13. Section 110 of the Act presently reads as follows:

110. When the driver of a vehicle is approaching a railway crossing at a time when a clearly visible electrical or mechanical signal device or a flagman is giving warning of the approach of a railway train, he shall stop the vehicle not less than 15 feet from the nearest rail of the railway and shall not proceed until he can do so safely.

SECTION 14. Section 113 of the Act sets out the requirement of stopping a certain distance behind the door of a street car discharging passengers. The distance is being converted from "six feet" to "2 metres".

SECTION 15. Section 115 of the Act requires the use of low beams only in certain situations. Section 115 (a) and (b) are being amended to convert "500 feet" to "150 metres" and "200 feet" to "60 metres".

SECTION 16.—Subsection 1. Section 116 (1) of the Act, exclusive of the clauses, reads as follows:

(1) No person shall park, stand or stop a vehicle on a roadway,

.

References in clause *b* to “400 feet” are being converted to “125 metres”.

Subsection 2. Section 116 (8) of the Act provides that warning lights on commercial motor vehicles shall be visible for a certain distance. This distance is being converted from “500 feet” to “150 metres”.

Subsection 3. Section 116 (9) of the Act provides that flares on disabled commercial motor vehicles or trailers shall be visible for a certain distance. This distance is being converted from “100 feet” to “30 metres”.

SECTION 17. Section 119 of the Act requires certain vehicles to stop at railway crossings at a distance of not less than “15 feet” from the railway. The distance is being converted to “5 metres”.

SECTION 18. A reference in section 120*a* (2) of the Act to “40 miles” per hour is being converted to “60 kilometres” per hour.

SECTION 19. A reference in section 128*a* (1) of the Act to “fifty miles” per hour is being converted to “80 kilometres” per hour.

- (a) approaching an oncoming vehicle within 150 metres;
or
- (b) following another vehicle within 60 metres, except
when in the act of overtaking and passing.

16.—(1) Clause *b* of subsection 1 of section 116 of the said Act is ^{s. 116 (1) (b),} repealed and the following substituted therefor: re-enacted

- (b) when it is not practicable to park, stand or stop the vehicle off the roadway unless a clear view of the vehicle and of the roadway for at least 125 metres beyond the vehicle may be obtained from a distance of at least 125 metres from the vehicle in each direction upon the highway.

(2) Clause *a* of subsection 8 of the said section 116 is amended ^{s. 116 (8) (a),} by striking out “500 feet” in the third and fourth lines amended and inserting in lieu thereof “150 metres”.

(3) Subsection 9 of the said section 116 is amended by ^{s. 116 (9),} striking out “100 feet in advance of the vehicle and one amended at a distance of approximately 100 feet” in the tenth and eleventh lines and inserting in lieu thereof “30 metres in advance of the vehicle and one at a distance of approximately 30 metres”.

17. Section 119 of the said Act is amended by striking out “15 ^{s. 119,} feet” in the ninth line and inserting in lieu thereof “5 metres”. amended

18. Subsection 2 of section 120*a* of the said Act, as enacted by ^{s. 120*a* (2),} the Statutes of Ontario, 1976, chapter 37, section 17, is re-enacted repealed and the following substituted therefor:

- (2) A school crossing guard about to direct children ^{School crossing guard shall display sign} across a highway with a speed limit not in excess of 60 kilometres per hour shall, prior to entering the roadway, display a school crossing stop sign in an upright position so that it is visible to vehicular traffic approaching from each direction.

19. Subsection 1 of section 128*a* of the said Act, as enacted by ^{s. 128*a* (1),} the Statutes of Ontario, 1973, chapter 167, section 9, is re-enacted repealed and the following substituted therefor:

- (1) The council of a municipality may by by-law prohibit ^{Prohibiting commercial vehicles in left lane} the operation of a commercial motor vehicle other than a bus in the left lane of any highway under its jurisdiction

that has three or more lanes for traffic in each direction and on which the maximum speed limit is 80 kilometres per hour or more.

Commence-
ment

20. This Act comes into force on the 6th day of September, 1977.

Short title

21. The short title of this Act is *The Highway Traffic Amendment Act, 1977*.

BILL 19

An Act to amend
The Highway Traffic Act

1st Reading

June 27th, 1977

2nd Reading

July 6th, 1977

3rd Reading

THE HON. J. W. SNOW
Minister of Transportation and
Communications

*(Reprinted as amended by the Committee
of the Whole House)*

1ST SESSION, 31ST LEGISLATURE, ONTARIO
26 ELIZABETH II, 1977

An Act to amend The Highway Traffic Act

THE HON. J. W. SNOW
Minister of Transportation and Communications



TORONTO

PRINTED BY J. C. THATCHER, QUEEN'S PRINTER FOR ONTARIO

BILL 19

1977

An Act to amend The Highway Traffic Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

- 1.—(1) Paragraph 1a of subsection 1 of section 1 of *The Highway Traffic Act*, being chapter 202 of the Revised Statutes of Ontario, 1970, as renumbered by the Statutes of Ontario, 1973, chapter 167, section 1, is repealed and the following substituted therefor:

s. 1 (1), par. 1a,
re-enacted

1a. "built-up area" means the territory contiguous to a highway not within a city, town, village or police village where,

- i. not less than 50 per cent of the frontage upon one side of the highway for a distance of not less than 200 metres is occupied by dwellings, buildings used for business purposes, schools or churches, or
- ii. not less than 50 per cent of the frontage upon both sides of the highway for a distance of not less than 100 metres is occupied by dwellings, buildings used for business purposes, schools or churches, or
- iii. not more than 200 metres of the highway separates any territory described in subparagraph i or ii from any other territory described in subparagraph i or ii,

and signs are displayed as required by the regulations.

s. 1 (1), par. 15c,
subpar. v,
re-enacted

- (2) Subparagraph v of paragraph 15c of subsection 1 of the said section 1, as re-enacted by the Statutes of Ontario, 1975, chapter 78, section 1, is repealed and the following substituted therefor:

v. which does not have sufficient power to enable the bicycle to attain a speed greater than 50 kilometres per hour on level ground within a distance of 2 kilometres from a standing start.

s. 63a (5) (c),
re-enacted

- 2.—(1) Clause c of subsection 5 of section 63a of the said Act, as enacted by the Statutes of Ontario, 1975 (2nd Session), chapter 14, section 1, is repealed and the following substituted therefor:

(c) who is actually engaged in work which requires him to alight from and re-enter a motor vehicle at frequent intervals and who, while engaged in such work, does not drive or travel in that vehicle at a speed exceeding 40 kilometres per hour; or

s. 63a (7) (b),
re-enacted

- (2) Clause b of subsection 7 of the said section 63a is repealed and the following substituted therefor:

(b) is actually engaged in work which requires him to alight from and re-enter the motor vehicle at frequent intervals and the motor vehicle does not travel at a speed exceeding 40 kilometres per hour; or

s. 82 (1),
amended

- 3.—(1) Subsection 1 of section 82 of the said Act is amended,

(a) by striking out "50 miles" in the first line of clause a and inserting in lieu thereof "80 kilometres";

(b) by striking out "30 miles" in the first line of clause b and inserting in lieu thereof "50 kilometres";

(c) by striking out "20 miles" in clause d and inserting in lieu thereof "30 kilometres"; and

(d) by striking out "15 miles" in the first line of clause e and inserting in lieu thereof "20 kilometres".

- (2) Subsection 2 of the said section 82 is amended by striking ^{s. 82 (2),} amended out "25 miles" in the second line and in the fifth line and inserting in lieu thereof in each instance "40 kilometres".
- (3) Subsection 3 of the said section 82 is amended by striking ^{s. 82 (3),} amended out "30 miles" in the fourth line and inserting in lieu thereof "50 kilometres".
- (4) Subsection 4 of the said section 82 is amended by striking ^{s. 82 (4),} amended out "15 miles" in the fifth line and inserting in lieu thereof "20 kilometres".
- (5) Subsection 5 of the said section 82 is amended by striking ^{s. 82 (5),} amended out "60 miles" in the fifth line and inserting in lieu thereof "100 kilometres".
- (6) Subsection 6 of the said section 82 is amended by striking ^{s. 82 (6),} amended out "50 miles" in the seventh and eighth lines and inserting in lieu thereof "80 kilometres".
- (7) Subsection 7 of the said section 82 is amended by striking ^{s. 82 (7),} amended out "35 miles per hour or more than 60 miles per hour" in the sixth line and inserting in lieu thereof "60 kilometres per hour or more than 100 kilometres per hour".
- (8) Subsection 10 of the said section 82 is amended by ^{s. 82 (10),} amended striking out "50 miles" in the second line and inserting in lieu thereof "80 kilometres".
- (9) Subsection 12 of the said section 82 is amended, ^{s. 82 (12),} amended
 - (a) by striking out "500 feet" in the third line of clause *a* and inserting in lieu thereof "150 metres";
 - and
 - (b) by striking out "25 miles" in the first line of clause *b* and inserting in lieu thereof "40 kilometres".
- (10) Subsection 16 of the said section 82 is repealed and the ^{s. 82 (16),} re-enacted following substituted therefor:

(16) Every person who contravenes any of the provisions ^{Penalty} of this section or any by-law or regulation made under this section is guilty of an offence and on summary conviction is liable, where the rate of speed at which the motor vehicle was driven,

- (a) is less than 20 kilometres per hour over the maximum speed limit, to a fine of \$1.25 for each kilometre per hour that the motor vehicle was driven over the maximum speed limit;

(b) is 20 kilometres per hour or more but less than 40 kilometres per hour over the maximum speed limit, to a fine of \$1.75 for each kilometre that the motor vehicle was driven over the maximum speed limit;

(c) is 40 kilometres per hour or more but less than 60 kilometres per hour over the maximum speed limit, to a fine of \$2.50 for each kilometre per hour that the motor vehicle was driven over the maximum speed limit; and

(d) is 60 kilometres per hour or more over the maximum speed limit, to a fine of \$3.25 for each kilometre that the motor vehicle was driven over the maximum speed limit.

s. 82 (17),
amended

(11) Subsection 17 of the said section 82 is amended by striking out "30 or more miles" in the third and fourth lines and inserting in lieu thereof "60 or more kilometres".

s. 82a,
enacted

4. The said Act is amended by adding thereto the following section:

Conversion
of rate
of speed
set out in
by-laws

82a. Upon the maximum permitted rate of speed in kilometres per hour being marked on the highways or portions thereof affected, the speed limits established under a by-law passed pursuant to subsection 2, 3, 4, 5, 6, 7 or 12 of section 82 that are expressed as a rate of speed in miles per hour set out in Column 1 of the Table shall be deemed to be the rate of speed in kilometres per hour set opposite thereto in Column 2 of the Table.

TABLE

COLUMN 1	COLUMN 2
Rate of Speed in Miles per Hour	Rate of Speed in Kilometres per Hour
15	20
20	30
25	40
30	50
35	60
40	60
45	70
50	80
55	90
60	100

5.—(1) Section 84 of the said Act is amended by striking out ^{s. 84, amended} “5 miles” in the sixth line and inserting in lieu thereof “10 kilometres”.

(2) The said section 84 is further amended by adding ^{s. 84, amended} thereto the following subsections:

(2) The rates of speed set out in a regulation made under subsection 1 that are expressed as a rate of speed in miles per hour set out in Column 1 of the Table shall be deemed to be the rate of speed in kilometres per hour set opposite thereto in Column 2 of the Table. ^{Conversion of rates of speed}

TABLE

COLUMN 1	COLUMN 2
Rate of Speed in Miles per Hour	Rate of Speed in Kilometres per Hour
5	10
10	20
15	20
20	30
25	40
30	50
35	60
40	60
45	70
50	80
55	90

(3) No regulation made under subsection 1 shall apply until a notice as required by subsection 1 setting out the fixed limit of speed in kilometres per hour is posted. ^{Notice to be posted in kilometres per hour}

6. Subsection 3 of section 92 of the said Act is repealed and the following substituted therefor: ^{s. 92 (3), re-enacted}

(3) When a vehicle or street car is approaching a pedestrian crossover and is within 30 metres thereof, the driver of any other vehicle or street car approaching from the rear shall not overtake and pass such vehicle or street car. ^{Passing moving vehicles within 30 metres of pedestrian crossover}

7. Subsection 5 of section 94 of the said Act is amended by striking out “100 feet” in the fourth line and inserting in lieu thereof “30 metres”. ^{s. 94 (5), amended}

8. Section 95 of the said Act is repealed and the following substituted therefor: ^{s. 95, re-enacted}

95. No driver or operator of a vehicle upon a highway shall turn the vehicle so as to proceed in the opposite direction when, ^{U-turns prohibited}

- (a) upon a curve where traffic approaching the vehicle from either direction cannot be seen by the driver of the vehicle within a distance of 150 metres;
- (b) on a railway crossing or within 30 metres of a railway crossing;
- (c) upon an approach to or near the crest of a grade where the vehicle cannot be seen by the driver of another vehicle approaching from either direction within 150 metres; or
- (d) within 150 metres of a bridge, viaduct or tunnel where the driver's view is obstructed within such distance.

s. 96 (17),
amended

- 9.** Subsection 17 of section 96 of the said Act is amended by striking out "nine feet" in the eighth line and inserting in lieu thereof "2.75 metres".

s. 99,
amended

- 10.** Section 99 of the said Act is amended,

- (a) by striking out "100 feet" in the second line of clause *a* and inserting in lieu thereof "30 metres"; and
- (b) by striking out "100 feet" in the first line of clause *b* and inserting in lieu thereof "30 metres".

s. 105 (2),
amended

- 11.** Subsection 2 of section 105 of the said Act is amended by striking out "200 feet" in the third line and inserting in lieu thereof "60 metres".

s. 106 (2),
re-enacted

- 12.** Subsection 2 of section 106 of the said Act is repealed and the following substituted therefor:

Following
fire
department
vehicle

- (2) No driver of a vehicle shall follow a fire department vehicle when responding to an alarm at a distance of less than 150 metres.

s. 110,
amended

- 13.** Section 110 of the said Act is amended by striking out "15 feet" in the fourth line and inserting in lieu thereof "5 metres".

s. 113 (1),
amended

- 14.** Subsection 1 of section 113 of the said Act is amended by striking out "six feet" in the sixth line and inserting in lieu thereof "2 metres".

s. 115 (a) (b),
re-enacted

- 15.** Clauses *a* and *b* of section 115 of the said Act are repealed and the following substituted therefor:

- (a) approaching an oncoming vehicle within 150 metres;
or
- (b) following another vehicle within 60 metres, except
when in the act of overtaking and passing.

16.—(1) Clause *b* of subsection 1 of section 116 of the said Act is ^{s. 116 (1) (b),} repealed and the following substituted therefor: ^{re-enacted}

- (b) when it is not practicable to park, stand or stop the vehicle off the roadway unless a clear view of the vehicle and of the roadway for at least 125 metres beyond the vehicle may be obtained from a distance of at least 125 metres from the vehicle in each direction upon the highway.
- (2) Clause *a* of subsection 8 of the said section 116 is amended ^{s. 116 (8) (a),} by striking out “500 feet” in the third and fourth lines ^{amended} and inserting in lieu thereof “150 metres”.
- (3) Subsection 9 of the said section 116 is amended by ^{s. 116 (9),} striking out “100 feet in advance of the vehicle and one ^{amended} at a distance of approximately 100 feet” in the tenth and eleventh lines and inserting in lieu thereof “30 metres in advance of the vehicle and one at a distance of approximately 30 metres”.

17. Section 119 of the said Act is amended by striking out “15 ^{s. 119,} feet” in the ninth line and inserting in lieu thereof “5 metres”. ^{amended}

18. Subsection 2 of section 120*a* of the said Act, as enacted by ^{s. 120*a* (2),} the Statutes of Ontario, 1976, chapter 37, section 17, is ^{re-enacted} repealed and the following substituted therefor:

(2) A school crossing guard about to direct children ^{School} across a highway with a speed limit not in excess of 60 ^{crossing} kilometres per hour shall, prior to entering the roadway, ^{guard shall} display a school crossing stop sign in an upright position ^{display} so that it is visible to vehicular traffic approaching from ^{sign} each direction.

19. Subsection 1 of section 128*a* of the said Act, as enacted by ^{s. 128*a* (1),} the Statutes of Ontario, 1973, chapter 167, section 9, is ^{re-enacted} repealed and the following substituted therefor:

(1) The council of a municipality may by by-law prohibit ^{Prohibiting} the operation of a commercial motor vehicle other than a ^{commercial} bus in the left lane of any highway under its jurisdiction ^{vehicles in} ^{left lane}

that has three or more lanes for traffic in each direction and on which the maximum speed limit is 80 kilometres per hour or more.

Commence-
ment

20. This Act comes into force on the 6th day of September, 1977.

Short title

21. The short title of this Act is *The Highway Traffic Amendment Act, 1977*.

An Act to amend
The Highway Traffic Act

1st Reading

June 27th, 1977

2nd Reading

July 6th, 1977

3rd Reading

July 6th, 1977

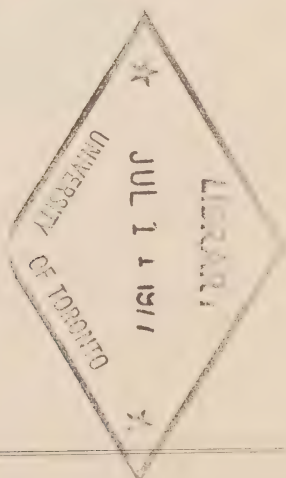
THE HON. J. W. SNOW
Minister of Transportation and
Communications

1ST SESSION, 31ST LEGISLATURE, ONTARIO
26 ELIZABETH II, 1977

Government
Publications

**An Act to amend
The Motorized Snow Vehicles Act, 1974**

THE HON. J. W. SNOW
Minister of Transportation and Communications



TORONTO

PRINTED BY J. C. THATCHER, QUEEN'S PRINTER FOR ONTARIO

EXPLANATORY NOTE

The amendment converts speed limit rates from imperial units to metric units: 15 miles per hour becomes 20 kilometres per hour and 30 miles per hour becomes 50 kilometres per hour.

BILL 20

1977

An Act to amend The Motorized Snow Vehicles Act, 1974

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Subsection 1 of section 13 of *The Motorized Snow Vehicles Act, 1974*, being chapter 113, is repealed and the following substituted therefor: s. 13 (1),
re-enacted

(1) No person shall drive a motorized snow vehicle at a greater rate of speed than, Speed
limit

(a) 20 kilometres per hour,

(i) on a highway where the speed limit established pursuant to *The Highway Traffic Act* is 50 kilometres per hour or less, or R.S.O. 1970,
c. 202

(ii) in any public park or exhibition grounds; or

(b) 50 kilometres per hour,

(i) on any highway which is open to motor vehicle traffic, where the speed limit established pursuant to *The Highway Traffic Act* is greater than 50 kilometres per hour, or

(ii) on a public trail.

2. This Act comes into force on a day to be named by proclamation of the Lieutenant Governor. Commence-
ment

3. The short title of this Act is *The Motorized Snow Vehicles Amendment Act, 1977*. Short title

BILL 20

An Act to amend
The Motorized Snow Vehicles
Act, 1974

1st Reading

June 27th, 1977

2nd Reading

3rd Reading

THE HON. J. W. SNOW
Minister of Transportation and
Communications

(Government Bill)

BILL 20

1ST SESSION, 31ST LEGISLATURE, ONTARIO
26 ELIZABETH II, 1977

**An Act to amend
The Motorized Snow Vehicles Act, 1974**

THE HON. J. W. SNOW
Minister of Transportation and Communications



TORONTO

PRINTED BY J. C. THATCHER, QUEEN'S PRINTER FOR ONTARIO

BILL 20

1977

**An Act to amend
The Motorized Snow Vehicles Act, 1974**

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Subsection 1 of section 13 of *The Motorized Snow Vehicles Act, 1974*, being chapter 113, is repealed and the following substituted therefor: s. 13 (1),
re-enacted

(1) No person shall drive a motorized snow vehicle at a greater rate of speed than, Speed
limit

(a) 20 kilometres per hour,

(i) on a highway where the speed limit established pursuant to *The Highway Traffic Act* is 50 kilometres per hour or less, or R.S.O. 1970,
c. 202

(ii) in any public park or exhibition grounds; or

(b) 50 kilometres per hour,

(i) on any highway which is open to motor vehicle traffic, where the speed limit established pursuant to *The Highway Traffic Act* is greater than 50 kilometres per hour, or

(ii) on a public trail.

2. This Act comes into force on a day to be named by proclamation of the Lieutenant Governor. Commence-
ment

3. The short title of this Act is *The Motorized Snow Vehicles Amendment Act, 1977*. Short title

BILL 20

An Act to amend
The Motorized Snow Vehicles
Act, 1974

1st Reading

June 27th, 1977

2nd Reading

July 6th, 1977

3rd Reading

July 6th, 1977

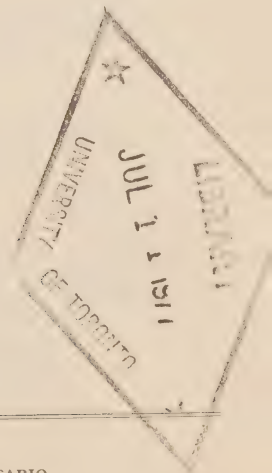
THE HON. J. W. SNOW
Minister of Transportation and
Communications

1ST SESSION, 31ST LEGISLATURE, ONTARIO
26 ELIZABETH II, 1977

Government
Publications

An Act to establish the Ministry of Northern Affairs

THE HON. L. BERNIER
Minister of Northern Affairs



TORONTO

PRINTED BY J. C. THATCHER, QUEEN'S PRINTER FOR ONTARIO

EXPLANATORY NOTE

The Bill establishes the Ministry of Northern Affairs to carry out the functions set out in the Bill.

BILL 21

1977

An Act to establish the Ministry of Northern Affairs

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. In this Act, Interpre-
tation
 - (a) "Deputy Minister" means the Deputy Minister of Northern Affairs;
 - (b) "Minister" means the Minister of Northern Affairs;
 - (c) "Ministry" means the Ministry of Northern Affairs.
2. There shall be a ministry of the public service to be Ministry
established
known as the Ministry of Northern Affairs.
3. The Minister shall preside over and have charge of the Minister to
have charge
Ministry.
4. The Minister is responsible for the administration of Duties of
Minister
this Act and any Acts that are assigned to him by the Legislature or by the Lieutenant Governor in Council.
- 5.—(1) The Lieutenant Governor in Council shall appoint Deputy
Minister
a Deputy Minister of Northern Affairs who shall be deputy head of the Ministry.
- (2) Such officers and employees as are required from time Staff
to time for the proper conduct of the business of the Ministry may be appointed under *The Public Service Act*. R.S.O. 1970,
c. 386
- (3) No action or other proceeding for damages shall be Protection
from
personal
liability
instituted against the Deputy Minister or any officer or employee of the Ministry or anyone acting under his authority for any act done in good faith in the execution of his duty or for any alleged neglect or default in the execution in good faith of his duty.

Liability
of Crown
R.S.O. 1970,
c. 365

(4) Subsection 3 does not, by reason of subsections 2 and 4 of section 5 of *The Proceedings Against the Crown Act*, relieve the Crown of liability in respect of a tort committed by a person mentioned in subsection 3 to which it would otherwise be subject and the Crown is liable under that Act for any such tort in a like manner as if subsection 3 had not been enacted.

Seal

6.—(1) The Lieutenant Governor in Council may authorize a seal for the Ministry.

Idem

(2) The seal may be reproduced by engraving, lithographing, printing or other method of mechanical reproduction and when so reproduced has the same effect as if manually affixed.

Delegation
of powers
and duties

7.—(1) Where, under this or any other Act, a power or duty is granted to or vested in the Minister, he may in writing delegate that power or duty to the Deputy Minister, or to any officer or officers of the Ministry, subject to such limitations, restrictions, conditions and requirements as the Minister may set out in his delegation.

Officers
authorized
to take
affidavits

(2) The Minister may empower such officers of the Ministry as he designates to administer oaths and take affidavits and declarations authorized by law in Northern Ontario or such part of Northern Ontario as the Minister prescribes in the designation, and each officer designated is a commissioner for taking affidavits under *The Commissioners for taking Affidavits Act*.

R.S.O. 1970,
c. 72

Function of
Ministry

8. It is the function of the Ministry to co-ordinate the activities of the Government in Northern Ontario, including,

- (a) preparing and recommending Government plans, policies and priorities for Northern Ontario;
- (b) establishing and administering Ministry programs and co-ordinating Government programs and services relating to Northern Ontario;
- (c) advising and participating in the planning and financing of Government programs, services and activities in Northern Ontario provided by other ministries;
- (d) improving the accessibility of the programs, services and activities of the Government of Ontario to the residents of Northern Ontario;

- (e) making recommendations regarding priorities for research of social and economic conditions of all areas of Northern Ontario;
- (f) administering such other programs and performing such other duties as are assigned to it by any Act or by the Lieutenant Governor in Council.

9. The Minister, with the approval of the Lieutenant Governor in Council, may make reciprocal arrangements and enter into agreement with, ^{Agreements}

- (a) the Crown in right of Canada;
- (b) the government or governments of any province or provinces of Canada; and
- (c) municipalities.

10.—(1) Upon the recommendation of the Minister, the Lieutenant Governor in Council may establish programs for the benefit of the residents of Northern Ontario. ^{Establishment of programs}

(2) A program may determine conditions for grants and assistance and conditions under which services are provided by the Ministry and expenses allowed. ^{Conditions for grants and assistance}

11. Subject to the approval of the Lieutenant Governor in Council, the Minister may establish advisory committees to the Minister and sub-committees thereto, appoint chairmen and members of such committees and sub-committees, fix the terms of reference of such committees and sub-committees and fix the remuneration and expenses of the chairmen and members of such committees and sub-committees. ^{Advisory committees}

12. This Act shall be deemed to have come into force on the 1st day of April, 1977. ^{Commencement}

13. The short title of this Act is *The Ministry of Northern Affairs Act, 1977*. ^{Short title}

An Act to establish the
Ministry of Northern Affairs

1st Reading

June 27th, 1977

2nd Reading

3rd Reading

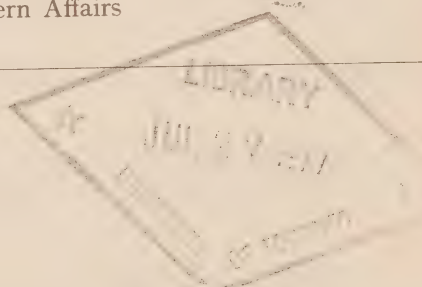
THE HON. L. BERNIER
Minister of Northern Affairs

(Government Bill)

1ST SESSION, 31ST LEGISLATURE, ONTARIO
26 ELIZABETH II, 1977

An Act to establish the Ministry of Northern Affairs

THE HON. L. BERNIER
Minister of Northern Affairs



(Reprinted as amended by the Committee of the Whole House)

TORONTO

PRINTED BY J. C. THATCHER, QUEEN'S PRINTER FOR ONTARIO

EXPLANATORY NOTE

The Bill establishes the Ministry of Northern Affairs to carry out the functions set out in the Bill.

BILL 21

1977

An Act to establish the Ministry of Northern Affairs

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. In this Act,

Interpre-
tation

(a) "Deputy Minister" means the Deputy Minister of Northern Affairs;

(b) "Minister" means the Minister of Northern Affairs;

(c) "Ministry" means the Ministry of Northern Affairs.

2. There shall be a ministry of the public service to be known as the Ministry of Northern Affairs.

Ministry
established

3. The Minister shall preside over and have charge of the Ministry.

Minister to
have charge

4. The Minister is responsible for the administration of this Act and any Acts that are assigned to him by the Legislature or by the Lieutenant Governor in Council.

Duties of
Minister

5.—(1) The Lieutenant Governor in Council shall appoint a Deputy Minister of Northern Affairs who shall be deputy head of the Ministry.

Deputy
Minister

(2) Such officers and employees as are required from time to time for the proper conduct of the business of the Ministry may be appointed under *The Public Service Act*.

Staff

R.S.O. 1970,
c. 386

(3) No action or other proceeding for damages shall be instituted against the Deputy Minister or any officer or employee of the Ministry or anyone acting under his authority for any act done in good faith in the execution of his duty or for any alleged neglect or default in the execution in good faith of his duty.

Protection
from
personal
liability

Liability
of Crown
R.S.O. 1970,
c. 365

(4) Subsection 3 does not, by reason of subsections 2 and 4 of section 5 of *The Proceedings Against the Crown Act*, relieve the Crown of liability in respect of a tort committed by a person mentioned in subsection 3 to which it would otherwise be subject and the Crown is liable under that Act for any such tort in a like manner as if subsection 3 had not been enacted.

Seal

6.—(1) The Lieutenant Governor in Council may authorize a seal for the Ministry.

Idem

(2) The seal may be reproduced by engraving, lithographing, printing or other method of mechanical reproduction and when so reproduced has the same effect as if manually affixed.

Delegation
of powers
and duties

7.—(1) Where, under this or any other Act, a power or duty is granted to or vested in the Minister, he may in writing delegate that power or duty to the Deputy Minister, or to any officer or officers of the Ministry, subject to such limitations, restrictions, conditions and requirements as the Minister may set out in his delegation.

Officers
authorized
to take
affidavits

(2) The Minister may empower such officers of the Ministry as he designates to administer oaths and take affidavits and declarations authorized by law in Northern Ontario or such part of Northern Ontario as the Minister prescribes in the designation, and each officer designated is a commissioner for taking affidavits under *The Commissioners for taking Affidavits Act*.

R.S.O. 1970,
c. 72

Function of
Ministry

8. It is the function of the Ministry to co-ordinate the activities of and initiate policies and programs for the Government in Northern Ontario, including,

- (a) preparing and recommending Government plans, policies and priorities for Northern Ontario;
- (b) establishing and administering Ministry programs and co-ordinating Government programs and services relating to Northern Ontario;
- (c) advising and participating in the planning and financing of Government programs, services and activities in Northern Ontario provided by other ministries;
- (d) improving the accessibility of the programs, services and activities of the Government of Ontario to the residents of Northern Ontario;

- (e) making recommendations regarding priorities for research of social and economic conditions of all areas of Northern Ontario;
- (f) administering such other programs and performing such other duties as are assigned to it by any Act or by the Lieutenant Governor in Council.

9. The Minister, with the approval of the Lieutenant Governor in Council, may make reciprocal arrangements and enter into agreement with, ^{Agreements}

- (a) the Crown in right of Canada;
- (b) the government or governments of any province or provinces of Canada; and
- (c) municipalities.

10.—(1) Upon the recommendation of the Minister, the Lieutenant Governor in Council may establish programs for ^{Establishment of programs} the benefit of the residents of Northern Ontario.

(2) A program may determine conditions for grants and assistance and conditions under which services are provided ^{Conditions for grants and assistance} by the Ministry and expenses allowed.

11. Subject to the approval of the Lieutenant Governor in Council, the Minister may establish advisory committees ^{Advisory committees} to the Minister and sub-committees thereto, appoint chairmen and members of such committees and sub-committees, fix the terms of reference of such committees and sub-committees and fix the remuneration and expenses of the chairmen and members of such committees and sub-committees.

12. This Act shall be deemed to have come into force on the 1st day of April, 1977. ^{Commencement}

13. The short title of this Act is *The Ministry of Northern Affairs Act, 1977*. ^{Short title}

An Act to establish the
Ministry of Northern Affairs

1st Reading

June 27th, 1977

2nd Reading

July 7th, 1977

3rd Reading

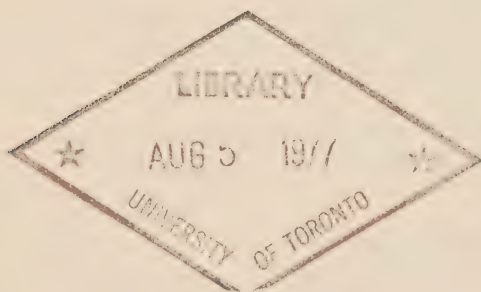
THE HON. L. BERNIER
Minister of Northern Affairs

*(Reprinted as amended by the
Committee of the Whole House)*

1ST SESSION, 31ST LEGISLATURE, ONTARIO
26 ELIZABETH II, 1977

An Act to establish the Ministry of Northern Affairs

THE HON. L. BERNIER
Minister of Northern Affairs



BILL 21

1977

An Act to establish the Ministry of Northern Affairs

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. In this Act,

Interpre-
tation

(a) "Deputy Minister" means the Deputy Minister of Northern Affairs;

(b) "Minister" means the Minister of Northern Affairs;

(c) "Ministry" means the Ministry of Northern Affairs.

2. There shall be a ministry of the public service to be known as the Ministry of Northern Affairs.

Ministry
established

3. The Minister shall preside over and have charge of the Ministry.

Minister to
have charge

4. The Minister is responsible for the administration of this Act and any Acts that are assigned to him by the Legislature or by the Lieutenant Governor in Council.

Duties of
Minister

5.—(1) The Lieutenant Governor in Council shall appoint a Deputy Minister of Northern Affairs who shall be deputy head of the Ministry.

Deputy
Minister

(2) Such officers and employees as are required from time to time for the proper conduct of the business of the Ministry may be appointed under *The Public Service Act*.

Staff

R.S.O. 1970,
c. 386

(3) No action or other proceeding for damages shall be instituted against the Deputy Minister or any officer or employee of the Ministry or anyone acting under his authority for any act done in good faith in the execution of his duty or for any alleged neglect or default in the execution in good faith of his duty.

Protection
from
personal
liability

Liability
of Crown
R.S.O. 1970,
c. 365

(4) Subsection 3 does not, by reason of subsections 2 and 4 of section 5 of *The Proceedings Against the Crown Act*, relieve the Crown of liability in respect of a tort committed by a person mentioned in subsection 3 to which it would otherwise be subject and the Crown is liable under that Act for any such tort in a like manner as if subsection 3 had not been enacted.

Seal

6.—(1) The Lieutenant Governor in Council may authorize a seal for the Ministry.

Idem

(2) The seal may be reproduced by engraving, lithographing, printing or other method of mechanical reproduction and when so reproduced has the same effect as if manually affixed.

Delegation
of powers
and duties

7.—(1) Where, under this or any other Act, a power or duty is granted to or vested in the Minister, he may in writing delegate that power or duty to the Deputy Minister, or to any officer or officers of the Ministry, subject to such limitations, restrictions, conditions and requirements as the Minister may set out in his delegation.

Officers
authorized
to take
affidavits

(2) The Minister may empower such officers of the Ministry as he designates to administer oaths and take affidavits and declarations authorized by law in Northern Ontario or such part of Northern Ontario as the Minister prescribes in the designation, and each officer designated is a commissioner for taking affidavits under *The Commissioners for taking Affidavits Act*.

R.S.O. 1970,
c. 72

Function of
Ministry

8. It is the function of the Ministry to co-ordinate the activities of and initiate policies and programs for the Government in Northern Ontario, including,

- (a) preparing and recommending Government plans, policies and priorities for Northern Ontario;
- (b) establishing and administering Ministry programs and co-ordinating Government programs and services relating to Northern Ontario;
- (c) advising and participating in the planning and financing of Government programs, services and activities in Northern Ontario provided by other ministries;
- (d) improving the accessibility of the programs, services and activities of the Government of Ontario to the residents of Northern Ontario;

- (e) making recommendations regarding priorities for research of social and economic conditions of all areas of Northern Ontario;
- (f) administering such other programs and performing such other duties as are assigned to it by any Act or by the Lieutenant Governor in Council.

9. The Minister, with the approval of the Lieutenant Governor in Council, may make reciprocal arrangements and enter into agreement with, ^{Agreements}

- (a) the Crown in right of Canada;
- (b) the government or governments of any province or provinces of Canada; and
- (c) municipalities.

10.—(1) Upon the recommendation of the Minister, the Lieutenant Governor in Council may establish programs for ^{Establishment of programs} the benefit of the residents of Northern Ontario.

(2) A program may determine conditions for grants and assistance and conditions under which services are provided ^{Conditions for grants and assistance} by the Ministry and expenses allowed.

11. Subject to the approval of the Lieutenant Governor in Council, the Minister may establish advisory committees ^{Advisory committees} to the Minister and sub-committees thereto, appoint chairmen and members of such committees and sub-committees, fix the terms of reference of such committees and sub-committees and fix the remuneration and expenses of the chairmen and members of such committees and sub-committees.

12. This Act shall be deemed to have come into force on the 1st day of April, 1977. ^{Commencement}

13. The short title of this Act is *The Ministry of Northern Affairs Act, 1977*. ^{Short title}

**An Act to establish the
Ministry of Northern Affairs**

1st Reading

June 27th, 1977

2nd Reading

July 7th, 1977

3rd Reading

July 12th, 1977

THE HON. L. BERNIER
Minister of Northern Affairs

1ST SESSION, 31ST LEGISLATURE, ONTARIO
26 ELIZABETH II, 1977

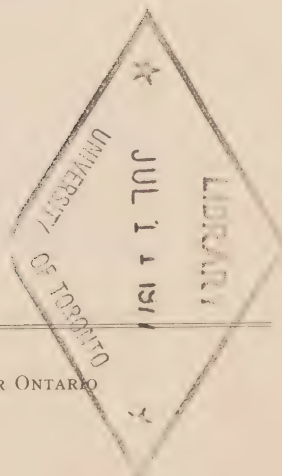
Government
Publications

An Act to amend The Labour Relations Act

THE HON. B. STEPHENSON
Minister of Labour

TORONTO

PRINTED BY J. C. THATCHER, QUEEN'S PRINTER FOR ONTARIO



EXPLANATORY NOTES

SECTION 1. Clauses *e*, *h* and *n* of subsection 1 of section 1 of the Act now read as follows:

- (*e*) “collective agreement” means an agreement in writing between an employer or an employers’ organization, on the one hand, and a trade union that, or a council of trade unions that, represents employees of the employer or employees of members of the employers’ organization, on the other hand, containing provisions respecting terms or conditions of employment or the rights, privileges or duties of the employer, the employers’ organization, the trade union or the employees;
-
- (*h*) “employers’ organization” means an organization of employers formed for purposes that include the regulation of relations between employers and employees and includes an accredited employers’ organization;
-
- (*n*) “trade union” means an organization of employees formed for purposes that include the regulation of relations between employees and employers and includes a provincial, national or international trade union and a certified council of trade unions.

The re-enactment of clause *e* adds the words “and includes a provincial agreement”.

The re-enactment of clause *h* adds the words “and a designated or accredited employer bargaining agency”.

The re-enactment of clause *n* adds the words “and a designated or certified employee bargaining agency”.

In each instance the added words are complementary to the new sections 125 to 140 of the Act.

SECTION 2. The amendment is complementary to the new section 134 (3).

SECTION 3. The new sections 125 to 140 deal with province-wide bargaining in the industrial, commercial and institutional sector of the construction industry.

Section 125. The definitions are complementary to the new sections of the Act.

Section 126. Self-explanatory.

Section 127.—Subsection 1. The subsection provides that initially new bargaining agencies are to be designated by the Minister to represent individual trades or crafts and employers of such trades or crafts in province-wide, multi-employer bargaining in the industrial, commercial and institutional sector of the construction industry.

Subsection 2. The subsection permits the Minister to convene a conference of trade unions and employers to advise in the selection of the appropriate bargaining agency.

Subsection 3. The Minister may refer to the Ontario Labour Relations Board any question concerning a designation.

Subsection 4. The Minister is empowered to amend or revoke a designation and to make another designation.

Subsection 5. Self-explanatory.

Section 128. The section provides that a designated employee bargaining agency may be replaced by the Ontario Labour Relations Board if the Board finds the applicant for replacement to be more representative of employees in the trade or craft.

Section 129. The section provides that a designated employer bargaining agency may be replaced by the Ontario Labour Relations Board if the Board finds the applicant for replacement to be more representative of the employers in the trade or craft.

Section 130. The section provides that an employee bargaining agency, upon designation or replacement by the Ontario Labour Relations Board, has vested in it all the bargaining rights of the trade unions which represent the members of a particular trade or craft for the purpose of bargaining for a provincial agreement.

Section 131. The section provides that an employer bargaining agency, upon designation or replacement, has vested in it all the bargaining rights of employers for the purpose of bargaining for a provincial agreement.

Section 132. The section provides that existing collective agreements shall end according to their term of operation and are then replaced by the provincial agreements which will become binding upon employers, trade unions and employees in the trades or crafts covered by the provincial agreements.

Section 133. The section provides that a provincial agreement shall be the only agreement between employers and a designated trade or craft and any agreement or arrangement other than a provincial agreement shall be null and void.

The section further provides that all provincial agreements shall expire at the same time, April 30th, and shall be for a period of two years.

Section 134. The section sets out who is bound by a provincial agreement.

Section 135. The Ontario Labour Relations Board is empowered to determine whether work performed by employees is within the industrial, commercial and institutional sector of the construction industry.

Section 136. The section provides that an employee and an employer bargaining agency shall act in good faith with their members and the employers or unions they represent.

Section 137. The section provides that a co-ordinating agency of employer bargaining agencies may be designated and the constitution, etc., thereof, regulated by regulations made by the Lieutenant Governor in Council.

Section 138. Self-explanatory.

Section 139. Self-explanatory.

Section 140. Self-explanatory.

An Act to amend The Labour Relations Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Clauses *e*, *h* and *n* of subsection 1 of section 1 of *The Labour Relations Act*, being chapter 232 of the Revised Statutes of Ontario, 1970, are repealed and the following substituted therefor: s. 1(1)(*e, h, n*)
re-enacted

(*e*) “collective agreement” means an agreement in writing between an employer or an employers’ organization, on the one hand, and a trade union that, or a council of trade unions that, represents employees of the employer or employees of members of the employers’ organization, on the other hand, containing provisions respecting terms or conditions of employment or the rights, privileges or duties of the employer, the employers’ organization, the trade union or the employees, and includes a provincial agreement;

.

(*h*) “employers’ organization” means an organization of employers formed for purposes that include the regulation of relations between employers and employees and includes an accredited employers’ organization and a designated or accredited employer bargaining agency;

.

(*n*) “trade union” means an organization of employees formed for purposes that include the regulation of relations between employees and employers and includes a provincial, national, or international trade union, a certified council of trade unions and a designated or certified employee bargaining agency.

s. 112a(1),
amended

2. Subsection 1 of section 112a of the said Act, as enacted by the Statutes of Ontario, 1975, chapter 76, section 30, is amended by striking out "either" in the third line and inserting in lieu thereof "a".

ss. 125-140,
enacted

3. The said Act is amended by adding thereto the following sections:

PROVINCE-WIDE BARGAINING

Interpre-
tation

125. In this section and in sections 126 to 140,

- (a) "affiliated bargaining agent" means a bargaining agent that, according to established trade union practice in the construction industry, represents employees who commonly bargain separately and apart from other employees and is subordinate or directly related to, or is, a provincial, national or international trade union, and includes an employee bargaining agency;
- (b) "bargaining", except when used in reference to an affiliated bargaining agent, means province-wide, multi-employer, bargaining in the industrial, commercial and institutional sector of the construction industry referred to in clause *e* of section 106;
- (c) "co-ordinating agency" means an organization of employer bargaining agencies formed for purposes that include the co-ordination of bargaining and designated in the regulations;
- (d) "employee bargaining agency" means an organization of affiliated bargaining agents that are subordinate or directly related to the same provincial, national or international trade union, and that may include the parent or related provincial, national or international trade union, formed for purposes that include the representation of affiliated bargaining agents in bargaining and which may be a single provincial, national or international trade union;
- (e) "employer bargaining agency" means an employers' organization or group of employers' organizations formed for purposes that include the representation of employers in bargaining;
- (f) "provincial agreement" means an agreement in writing covering the whole of the Province of Ontario between a designated or accredited em-

ployer bargaining agency that represents employers, on the one hand, and a designated or certified employee bargaining agency that represents affiliated bargaining agents, on the other hand, containing provisions respecting terms or conditions of employment or the rights, privileges or duties of the employer bargaining agency, the employers represented by the employer bargaining agency and for whose employees the affiliated bargaining agents hold bargaining rights, the affiliated bargaining agents represented by the employee bargaining agency, or the employees represented by the affiliated bargaining agents and employed in the industrial, commercial and institutional sector of the construction industry referred to in clause *e* of section 106.

126. Where there is conflict between any provision in sections 127 to 140 and any provision in sections 5 to 49 and 54 to 124, the provisions in sections 127 to 140 prevail. Conflict

127.—(1) The Minister may, upon such terms and conditions as the Minister considers appropriate, Designation
by Minister

- (a) designate employee bargaining agencies to represent in bargaining provincial units of affiliated bargaining agents, and describe those provincial units;
- (b) notwithstanding an accreditation of an employers' organization as the bargaining agent of employers, designate employer bargaining agencies to represent in bargaining provincial units of employers for whose employees affiliated bargaining agents hold bargaining rights, and describe those provincial units.

(2) Where a designation is not made by the Minister of an employee bargaining agency or an employer bargaining agency under subsection 1 within sixty days after this section comes into force, the Minister may convene a conference of trade unions, councils of trade unions, employers and employers' organizations, as the case may be, for the purpose of obtaining recommendations with respect to the making of a designation. Minister
may convene
conference

(3) The Minister may refer to the Board any question that arises concerning a designation, or any terms or conditions therein, and the Board shall report to the Minister its decision on the question. Reference of
question

Minister
may alter,
etc.,
designation

(4) Subject to sections 128 and 129, the Minister may alter, revoke or amend any designation from time to time and may make another designation.

R.S.O. 1970,
c. 410 does
not apply

(5) *The Regulations Act* does not apply to a designation made under subsection 1.

Application
to Board
by employee
bargaining
agency

128.—(1) During the period between the one hundred and twentieth and the one hundred and eightieth days prior to the termination of a provincial agreement, an employee bargaining agency, whether designated or not, may apply to the Board to be certified to represent in bargaining a provincial unit of affiliated bargaining agents.

Certification
by Board

(2) Where the Board is satisfied that a majority of the affiliated bargaining agents falling within the provincial unit is represented by the employee bargaining agency and that such majority of affiliated bargaining agents holds bargaining rights for a majority of employees that would be bound by a provincial agreement, the Board shall certify the employee bargaining agency.

Application
to Board
by employer
bargaining
agency

129.—(1) During the period between the one hundred and twentieth and the one hundred and eightieth days prior to the termination of a provincial agreement, an employer bargaining agency, whether designated or not, may apply to the Board to be accredited to represent in bargaining a provincial unit of employers for whose employees affiliated bargaining agents hold bargaining rights.

Accreditation
by Board

(2) Where the Board is satisfied that a majority of employers falling within the provincial unit is represented by the employer bargaining agency and that such majority of employers employ a majority of the employees for whom the affiliated bargaining agents hold bargaining rights, the Board shall accredit the employer bargaining agency.

Vesting of
rights,
duties and
obligations

130. Where an employee bargaining agency has been designated under section 127 or certified under section 128 to represent a provincial unit of affiliated bargaining agents, all rights, duties and obligations under this Act of the affiliated bargaining agents for which it bargains shall vest in the employee bargaining agency, but only for the purpose of conducting bargaining and concluding a provincial agreement.

Idem

131. Where an employer bargaining agency has been designated under section 127 or accredited under section 129 to represent a provincial unit of employers,

(a) all rights, duties and obligations under this Act of employers for which it bargains shall vest in the

employer bargaining agency, but only for the purpose of conducting bargaining and concluding a provincial agreement; and

- (b) an accreditation heretofore made under section 115 of an employers' organization as bargaining agent of the employers in the industrial, commercial and institutional sector of the construction industry referred to in clause *e* of section 106 represented or to be represented by the employer bargaining agency is null and void from the time of such designation under section 127 or accreditation under section 129.

132.—(1) Subject to subsection 2, any collective agreement in operation upon the coming into force of this section in respect of employees employed in the industrial, commercial and institutional sector of the construction industry referred to in clause *e* of section 106 and represented by affiliated bargaining agents, is enforceable by and binding on the parties thereto only for the remainder of the term of operation of the agreement, regardless of any provision respecting its renewal. Termination
of collective
agreement

(2) Notwithstanding subsection 1 of section 44, every collective agreement in respect of employees employed in the industrial, commercial and institutional sector of the construction industry referred to in clause *e* of section 106 entered into after the 1st day of January, 1977 and before the 30th day of April, 1978 shall be deemed to expire not later than the 30th day of April, 1978, regardless of any provision respecting its term of operation or its renewal. Idem

(3) Where any collective agreement mentioned in subsection 1 ceases to operate, the affiliated bargaining agent, the employer and the employees for whom the affiliated bargaining agent holds bargaining rights shall be bound by the provincial agreement made between an employee bargaining agency representing the affiliated bargaining agent and the employer bargaining agency representing the employer. Provincial
agreement
binding

(4) After the 30th day of April, 1978, where an affiliated bargaining agent obtains bargaining rights through certification or voluntary recognition in respect of employees employed in the industrial, commercial and institutional sector of the construction industry referred to in clause *e* of section 106, the employer, the affiliated bargaining agent, and the employees for whom the affiliated bargaining agent has obtained bargaining rights are bound by the provincial agreement made between an employee bargaining agency represent- Idem

ing the affiliated bargaining agent and an employer bargaining agency representing a provincial unit of employers in which the employer would have been included.

When
provincial
agreement
ceases to
operate

(5) Notwithstanding subsection 1 of section 44, where, under the provisions of this section, an employer, affiliated bargaining agent or employees become bound by a provincial agreement after the agreement has commenced to operate, the agreement ceases to be binding on the employer, affiliated agent or employees in accordance with the terms thereof.

Agency shall
make only
one
agreement

133.—(1) An employee bargaining agency and an employer bargaining agency shall make only one provincial agreement for each provincial unit that it represents.

No agreement
other than
provincial
agreement

(2) On and after the 30th day of April, 1978 and subject to section 132, no person, employee, trade union, council of trade unions, affiliated bargaining agent, employee bargaining agency, employer, employers' organization, group of employers' organizations or employer bargaining agency shall bargain for, attempt to bargain for, or conclude any collective agreement or other arrangement affecting employees represented by affiliated bargaining agents other than a provincial agreement as contemplated by subsection 1, and any collective agreement or other arrangement that does not comply with subsection 1 is null and void.

Expiry of
provincial
agreement

(3) Every provincial agreement shall provide for the expiry of the agreement on the 30th day of April calculated biennially from the 30th day of April, 1978.

Non-
application
of s. 43

134.—(1) Section 43 does not apply to a designated or accredited employer bargaining agency or a designated or certified employee bargaining agency.

Provincial
agreement
binding

(2) A provincial agreement is, subject to and for the purposes of this Act, binding upon the employer bargaining agency, the employers represented by the employer bargaining agency but only in respect of those employees for whom the affiliated bargaining agents hold bargaining rights and who are employed in the industrial, commercial and institutional sector of the construction industry referred to in clause *e* of section 106, the employee bargaining agency, the affiliated bargaining agents represented by the employee bargaining agency, the employees represented by the affiliated bargaining agents and employed in such sector, and upon such employers, affiliated bargaining agents and employees as may be subsequently bound by the said agreement.

(3) Any employee bargaining agency, affiliated bargaining ^{Parties} agent, employer bargaining agency and employer bound by a provincial agreement shall be considered to be a party for the purposes of section 112a.

135. The Board shall, upon the application of a trade ^{Power of Board} union, a council of trade unions, or an employer or employers' organization, determine any question that arises as to whether work performed or to be performed by employees is within the industrial, commercial and institutional sector of the construction industry referred to in clause *e* of section 106.

136.—(1) A designated or certified employee bargaining ^{Bargaining agency} agency shall not act in a manner that is arbitrary, dis- ^{not to act} criminatory or in bad faith in the representation of the ^{in bad} affiliated bargaining agents in the provincial unit of affiliated ^{faith, etc.} bargaining agents for which it bargains, whether members of the designated or certified employee bargaining agency or not and in the representation of employees, whether members of an affiliated bargaining agent or not.

(2) A designated or accredited employer bargaining agency ^{Idem} shall not act in a manner that is arbitrary, discriminatory or in bad faith in the representation of any of the employers in the provincial unit of employers for which it bargains, whether members of the designated or accredited employer bargaining agency or not.

137. For the purpose of encouraging the co-ordination ^{Regulations} of bargaining, the Lieutenant Governor in Council may make regulations,

- (a) designating a co-ordinating agency;
- (b) establishing the constitution of a co-ordinating agency to provide for,
 - (i) the objects of the co-ordinating agency,
 - (ii) the appointment of a board of directors,
 - (iii) the fees to be paid by its members,
 - (iv) the duties, responsibilities and privileges of members, and
 - (v) other matters necessary for the operation of the co-ordinating agency.

Constitution
to be
complied
with

138. A co-ordinating agency and its members shall comply with the provisions of its constitution.

Membership
in co-
ordinating
agency

139. Every employer bargaining agency shall be a member of the co-ordinating agency designated in the regulations to co-ordinate bargaining for employer bargaining agencies and shall pay the fees set out in the constitution of that co-ordinating agency.

Exercise of
bargaining
rights

140. No co-ordinating agency shall exercise, or purport to exercise, the bargaining rights held by an employer bargaining agency.

Commence-
ment

4. This Act comes into force on the day it receives Royal Assent.

Short title

5. The short title of this Act is *The Labour Relations Amendment Act, 1977*.

BILL 22

An Act to amend
The Labour Relations Act

1st Reading

June 27th, 1977

2nd Reading

3rd Reading

THE HON. B. STEPHENSON
Minister of Labour

(Government Bill)

BILL 22

Government Bill

1ST SESSION, 31ST LEGISLATURE, ONTARIO
26 ELIZABETH II, 1977

An Act to amend The Labour Relations Act



THE HON. B. STEPHENSON
Minister of Labour

(Reprinted as amended by the Committee of the Whole House)

EXPLANATORY NOTES

SECTION 1. Clauses *e*, *h* and *n* of subsection 1 of section 1 of the Act now read as follows:

(e) *"collective agreement" means an agreement in writing between an employer or an employers' organization, on the one hand, and a trade union that, or a council of trade unions that, represents employees of the employer or employees of members of the employers' organization, on the other hand, containing provisions respecting terms or conditions of employment or the rights, privileges or duties of the employer, the employers' organization, the trade union or the employees;*

(h) *"employers' organization" means an organization of employers formed for purposes that include the regulation of relations between employers and employees and includes an accredited employers' organization;*

(n) *"trade union" means an organization of employees formed for purposes that include the regulation of relations between employees and employers and includes a provincial, national or international trade union and a certified council of trade unions.*

The re-enactment of clause *e* adds the words "and includes a provincial agreement".

The re-enactment of clause *h* adds the words "and a designated or accredited employer bargaining agency".

The re-enactment of clause *n* adds the words "and a designated or certified employee bargaining agency".

In each instance the added words are complementary to the new sections 125 to 136 of the Act.

SECTION 2. The amendment is complementary to the new section 134 (3).

SECTION 3. The new sections 125 to 136 deal with province-wide bargaining in the industrial, commercial and institutional sector of the construction industry.

Section 125. The definitions are complementary to the new sections of the Act.

Section 126. Self-explanatory.

Section 127.—Subsection 1. The subsection provides that initially new bargaining agencies are to be designated by the Minister to represent individual trades or crafts and employers of such trades or crafts in province-wide, multi-employer bargaining in the industrial, commercial and institutional sector of the construction industry.

Subsection 2. The subsection authorizes the Minister to exclude certain bargaining relationships from designations made under subsection 1.

Subsection 3. The subsection permits the Minister to convene a conference of trade unions and employers to advise in the selection of the appropriate bargaining agency.

Subsection 4. The Minister may refer to the Ontario Labour Relations Board any question concerning a designation.

Subsection 5. The Minister is empowered to amend or revoke a designation and to make another designation.

Subsection 6. Self-explanatory.

Section 128. The section provides that a designated employee bargaining agency may be replaced by the Ontario Labour Relations Board if the Board finds the applicant for replacement to be more representative of employees in the trade or craft.

Section 129. The section provides that a designated employer bargaining agency may be replaced by the Ontario Labour Relations Board if the Board finds the applicant for replacement to be more representative of the employers in the trade or craft.

Section 130. The section provides that an employee bargaining agency, upon designation or replacement by the Ontario Labour Relations Board, has vested in it all the bargaining rights of the trade unions which represent the members of a particular trade or craft for the purpose of bargaining for a provincial agreement.

Section 131. The section provides that an employer bargaining agency, upon designation or replacement, has vested in it all the bargaining rights of employers for the purpose of bargaining for a provincial agreement.

Section 132. The section provides that existing collective agreements shall end according to their term of operation and are then replaced by the provincial agreements which will become binding upon employers, trade unions and employees in the trades or crafts covered by the provincial agreements.

Section 133. The section provides that a provincial agreement shall be the only agreement between employers and a designated trade or craft and any agreement or arrangement other than a provincial agreement shall be null and void.

The section further provides that all provincial agreements shall expire at the same time, April 30th, and shall be for a period of two years.

Section 134. The section sets out who is bound by a provincial agreement.

Section 135. The Ontario Labour Relations Board is empowered to determine whether work performed by employees is within the industrial, commercial and institutional sector of the construction industry.

Section 136. The section provides that an employee and an employer bargaining agency shall act in good faith with their members and the employers or unions they represent.

An Act to amend The Labour Relations Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Clauses *e*, *h* and *n* of subsection 1 of section 1 of *The Labour Relations Act*, being chapter 232 of the Revised Statutes of Ontario, 1970, are repealed and the following substituted therefor: s. 1(1)(*e, h, n*)
re-enacted

(*e*) “collective agreement” means an agreement in writing between an employer or an employers’ organization, on the one hand, and a trade union that, or a council of trade unions that, represents employees of the employer or employees of members of the employers’ organization, on the other hand, containing provisions respecting terms or conditions of employment or the rights, privileges or duties of the employer, the employers’ organization, the trade union or the employees, and includes a provincial agreement;

(*h*) “employers’ organization” means an organization of employers formed for purposes that include the regulation of relations between employers and employees and includes an accredited employers’ organization and a designated or accredited employer bargaining agency;

(*n*) “trade union” means an organization of employees formed for purposes that include the regulation of relations between employees and employers and includes a provincial, national, or international trade union, a certified council of trade unions and a designated or certified employee bargaining agency.

s. 112a(1),
amended

2. Subsection 1 of section 112a of the said Act, as enacted by the Statutes of Ontario, 1975, chapter 76, section 30, is amended by striking out "either" in the third line and inserting in lieu thereof "a".

ss. 125-136,
enacted

3. The said Act is amended by adding thereto the following sections:

PROVINCE-WIDE BARGAINING

Interpre-
tation

125. In this section and in sections 126 to 136,

- (a) "affiliated bargaining agent" means a bargaining agent that, according to established trade union practice in the construction industry, represents employees who commonly bargain separately and apart from other employees and is subordinate or directly related to, or is, a provincial, national or international trade union, and includes an employee bargaining agency;
- (b) "bargaining", except when used in reference to an affiliated bargaining agent, means province-wide, multi-employer, bargaining in the industrial, commercial and institutional sector of the construction industry referred to in clause e of section 106;
- (c) "employee bargaining agency" means an organization of affiliated bargaining agents that are subordinate or directly related to the same provincial, national or international trade union, and that may include the parent or related provincial, national or international trade union, formed for purposes that include the representation of affiliated bargaining agents in bargaining and which may be a single provincial, national or international trade union;
- (d) "employer bargaining agency" means an employers' organization or group of employers' organizations formed for purposes that include the representation of employers in bargaining;
- (e) "provincial agreement" means an agreement in writing covering the whole of the Province of Ontario between a designated or accredited em-

ployer bargaining agency that represents employers, on the one hand, and a designated or certified employee bargaining agency that represents affiliated bargaining agents, on the other hand, containing provisions respecting terms or conditions of employment or the rights, privileges or duties of the employer bargaining agency, the employers represented by the employer bargaining agency and for whose employees the affiliated bargaining agents hold bargaining rights, the affiliated bargaining agents represented by the employee bargaining agency, or the employees represented by the affiliated bargaining agents and employed in the industrial, commercial and institutional sector of the construction industry referred to in clause *e* of section 106.

126. Where there is conflict between any provision in sections 127 to 136 and any provision in sections 5 to 49 and 54 to 124, the provisions in sections 127 to 136 prevail. Conflict

127.—(1) The Minister may, upon such terms and conditions as the Minister considers appropriate, Designation
by Minister

- (a) designate employee bargaining agencies to represent in bargaining provincial units of affiliated bargaining agents, and describe those provincial units;
- (b) notwithstanding an accreditation of an employers' organization as the bargaining agent of employers, designate employer bargaining agencies to represent in bargaining provincial units of employers for whose employees affiliated bargaining agents hold bargaining rights, and describe those provincial units.

(2) Where affiliated bargaining agents that are subordinate or directly related to different provincial, national or international trade unions bargain as a council of trade unions with a single employer bargaining agency for a province-wide collective agreement, the Minister may exclude such bargaining relationships from the designations made under subsection 1, and subsection 2 of section 133 shall not apply to such exclusion. Exclusion
of certain
bargaining
relationships

(3) Where a designation is not made by the Minister of an employee bargaining agency or an employer bargaining agency under subsection 1 within sixty days after this section comes into force, the Minister may convene a conference of trade unions, councils of trade unions, employers and employers' Minister
may convene
conference

organizations, as the case may be, for the purpose of obtaining recommendations with respect to the making of a designation.

Reference of
question

(4) The Minister may refer to the Board any question that arises concerning a designation, or any terms or conditions therein, and the Board shall report to the Minister its decision on the question.

Minister
may alter,
etc.,
designation

(5) Subject to sections 128 and 129, the Minister may alter, revoke or amend any designation from time to time and may make another designation.

R.S.O. 1970,
c. 410 does
not apply

(6) *The Regulations Act* does not apply to a designation made under subsection 1.

Application
to Board
by employee
bargaining
agency

128.—(1) During the period between the one hundred and twentieth and the one hundred and eightieth days prior to the termination of a provincial agreement, an employee bargaining agency, whether designated or not, may apply to the Board to be certified to represent in bargaining a provincial unit of affiliated bargaining agents.

Certification
by Board

(2) Where the Board is satisfied that a majority of the affiliated bargaining agents falling within the provincial unit is represented by the employee bargaining agency and that such majority of affiliated bargaining agents holds bargaining rights for a majority of employees that would be bound by a provincial agreement, the Board shall certify the employee bargaining agency.

Application
to Board
by employer
bargaining
agency

129.—(1) During the period between the one hundred and twentieth and the one hundred and eightieth days prior to the termination of a provincial agreement, an employer bargaining agency, whether designated or not, may apply to the Board to be accredited to represent in bargaining a provincial unit of employers for whose employees affiliated bargaining agents hold bargaining rights.

Accreditation
by Board

(2) Where the Board is satisfied that a majority of employers falling within the provincial unit is represented by the employer bargaining agency and that such majority of employers employ a majority of the employees for whom the affiliated bargaining agents hold bargaining rights, the Board shall accredit the employer bargaining agency.

Vesting of
rights,
duties and
obligations

130. Where an employee bargaining agency has been designated under section 127 or certified under section 128 to represent a provincial unit of affiliated bargaining agents, all rights, duties and obligations under this Act of the affiliated bargaining agents for which it bargains shall vest in the

employee bargaining agency, but only for the purpose of conducting bargaining and, subject to the ratification procedures of the employee bargaining agency, concluding a provincial agreement.

131. Where an employer bargaining agency has been designated under section 127 or accredited under section 129 to represent a provincial unit of employers, ^{Idem}

- (a) all rights, duties and obligations under this Act of employers for which it bargains shall vest in the employer bargaining agency, but only for the purpose of conducting bargaining and concluding a provincial agreement; and
- (b) an accreditation heretofore made under section 115 of an employers' organization as bargaining agent of the employers in the industrial, commercial and institutional sector of the construction industry referred to in clause *e* of section 106 represented or to be represented by the employer bargaining agency is null and void from the time of such designation under section 127 or accreditation under section 129.

132.—(1) Subject to subsection 2, any collective agreement in operation upon the coming into force of this section in respect of employees employed in the industrial, commercial and institutional sector of the construction industry referred to in clause *e* of section 106 and represented by affiliated bargaining agents, is enforceable by and binding on the parties thereto only for the remainder of the term of operation of the agreement, regardless of any provision respecting its renewal. ^{Termination of collective agreement}

(2) Notwithstanding subsection 1 of section 44, every collective agreement in respect of employees employed in the industrial, commercial and institutional sector of the construction industry referred to in clause *e* of section 106 and represented by affiliated bargaining agents entered into after the 1st day of January, 1977 and before the 30th day of April, 1978 shall be deemed to expire not later than the 30th day of April, 1978, regardless of any provision respecting its term of operation or its renewal. ^{Idem}

(3) Where any collective agreement mentioned in subsection 1 ceases to operate, the affiliated bargaining agent, the employer and the employees for whom the affiliated bargaining agent holds bargaining rights shall be bound by the provincial agreement made between an employee bargaining agency representing the affiliated bargaining agent ^{Provincial agreement binding}

and the employer bargaining agency representing the employer.

Idem

(4) After the 30th day of April, 1978, where an affiliated bargaining agent obtains bargaining rights through certification or voluntary recognition in respect of employees employed in the industrial, commercial and institutional sector of the construction industry referred to in clause *e* of section 106, the employer, the affiliated bargaining agent, and the employees for whom the affiliated bargaining agent has obtained bargaining rights are bound by the provincial agreement made between an employee bargaining agency representing the affiliated bargaining agent and an employer bargaining agency representing a provincial unit of employers in which the employer would have been included.

When provincial agreement ceases to operate

(5) Notwithstanding subsection 1 of section 44, where, under the provisions of this section, an employer, affiliated bargaining agent or employees become bound by a provincial agreement after the agreement has commenced to operate, the agreement ceases to be binding on the employer, affiliated agent or employees in accordance with the terms thereof.

Agency shall make only one agreement

133.—(1) An employee bargaining agency and an employer bargaining agency shall make only one provincial agreement for each provincial unit that it represents.

No agreement other than provincial agreement

(2) On and after the 30th day of April, 1978 and subject to sections 127 and 132, no person, employee, trade union, council of trade unions, affiliated bargaining agent, employee bargaining agency, employer, employers' organization, group of employers' organizations or employer bargaining agency shall bargain for, attempt to bargain for, or conclude any collective agreement or other arrangement affecting employees represented by affiliated bargaining agents other than a provincial agreement as contemplated by subsection 1, and any collective agreement or other arrangement that does not comply with subsection 1 is null and void.

Expiry of provincial agreement

(3) Every provincial agreement shall provide for the expiry of the agreement on the 30th day of April calculated biennially from the 30th day of April, 1978.

Non-application of s. 43

134.—(1) Section 43 does not apply to a designated or accredited employer bargaining agency or a designated or certified employee bargaining agency.

Provincial agreement binding

(2) A provincial agreement is, subject to and for the purposes of this Act, binding upon the employer bargaining

agency, the employers represented by the employer bargaining agency but only in respect of those employees for whom the affiliated bargaining agents hold bargaining rights and who are employed in the industrial, commercial and institutional sector of the construction industry referred to in clause *e* of section 106, the employee bargaining agency, the affiliated bargaining agents represented by the employee bargaining agency, the employees represented by the affiliated bargaining agents and employed in such sector, and upon such employers, affiliated bargaining agents and employees as may be subsequently bound by the said agreement.

(3) Any employee bargaining agency, affiliated bargaining agent, employer bargaining agency and employer bound by a provincial agreement shall be considered to be a party for the purposes of section 112*a*. ^{Parties}

135. The Board shall, upon the application of a trade union, a council of trade unions, or an employer or employers' organization, determine any question that arises as to whether work performed or to be performed by employees is within the industrial, commercial and institutional sector of the construction industry referred to in clause *e* of section 106. ^{Power of Board}

136.—(1) A designated or certified employee bargaining agency shall not act in a manner that is arbitrary, discriminatory or in bad faith in the representation of the affiliated bargaining agents in the provincial unit of affiliated bargaining agents for which it bargains, whether members of the designated or certified employee bargaining agency or not and in the representation of employees, whether members of an affiliated bargaining agent or not. ^{Bargaining agency not to act in bad faith, etc.}

(2) A designated or accredited employer bargaining agency shall not act in a manner that is arbitrary, discriminatory or in bad faith in the representation of any of the employers in the provincial unit of employers for which it bargains, whether members of the designated or accredited employer bargaining agency or not. ^{Idem}

4. This Act comes into force on the day it receives Royal Assent. ^{Commencement}
5. The short title of this Act is *The Labour Relations Amendment Act, 1977*. ^{Short title}

Bill 22

An Act to amend
The Labour Relations Act

1st Reading

June 27th, 1977

2nd Reading

July 11th, 1977

3rd Reading

THE HON. B. STEPHENSON
Minister of Labour

*(Reprinted as amended by the
Committee of the Whole House)*

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Ontario. Legislative Assembly

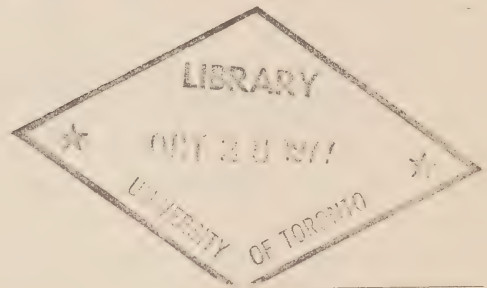
Government
Publications

BILL 22

Government Bill

1ST SESSION, 31ST LEGISLATURE, ONTARIO
26 ELIZABETH II, 1977

An Act to amend The Labour Relations Act



THE HON. B. STEPHENSON
Minister of Labour

(Reprinted as amended by the Resources Development Committee)

EXPLANATORY NOTES

SECTION 1. Clauses *e*, *h* and *n* of subsection 1 of section 1 of the Act now read as follows:

- (*e*) "collective agreement" means an agreement in writing between an employer or an employers' organization, on the one hand, and a trade union that, or a council of trade unions that, represents employees of the employer or employees of members of the employers' organization, on the other hand, containing provisions respecting terms or conditions of employment or the rights, privileges or duties of the employer, the employers' organization, the trade union or the employees;
- (*h*) "employers' organization" means an organization of employers formed for purposes that include the regulation of relations between employers and employees and includes an accredited employers' organization;
- (*n*) "trade union" means an organization of employees formed for purposes that include the regulation of relations between employees and employers and includes a provincial, national or international trade union and a certified council of trade unions.

The re-enactment of clause *e* adds the words "and includes a provincial agreement".

The re-enactment of clause *h* adds the words "and a designated or accredited employer bargaining agency".

The re-enactment of clause *n* adds the words "and a designated or certified employee bargaining agency".

In each instance the added words are complementary to the new sections 125 to 140 of the Act.

SECTION 2. The amendment is complementary to the new section 134 (3).

SECTION 3. The new sections 125 to 140 deal with province-wide bargaining in the industrial, commercial and institutional sector of the construction industry.

Section 125. The definitions are complementary to the new sections of the Act.

Section 126. Self-explanatory.

Section 127.—Subsection 1. The subsection provides that initially new bargaining agencies are to be designated by the Minister to represent individual trades or crafts and employers of such trades or crafts in province-wide, multi-employer bargaining in the industrial, commercial and institutional sector of the construction industry.

Subsection 2. The subsection authorizes the Minister to exclude certain bargaining relationships from designations made under subsection 1.

Subsection 3. The subsection permits the Minister to convene a conference of trade unions and employers to advise in the selection of the appropriate bargaining agency.

Subsection 4. The Minister may refer to the Ontario Labour Relations Board any question concerning a designation.

Subsection 5. The Minister is empowered to amend or revoke a designation and to make another designation.

Subsection 6. Self-explanatory.

Section 128. The section provides that a designated employee bargaining agency may be replaced by the Ontario Labour Relations Board if the Board finds the applicant for replacement to be more representative of employees in the trade or craft.

Section 129. The section provides that a designated employer bargaining agency may be replaced by the Ontario Labour Relations Board if the Board finds the applicant for replacement to be more representative of the employers in the trade or craft.

Section 130. The section provides that an employee bargaining agency, upon designation or replacement by the Ontario Labour Relations Board, has vested in it all the bargaining rights of the trade unions which represent the members of a particular trade or craft for the purpose of bargaining for a provincial agreement.

Section 131. The section provides that an employer bargaining agency, upon designation or replacement, has vested in it all the bargaining rights of employers for the purpose of bargaining for a provincial agreement.

Section 132. The section provides that existing collective agreements shall end according to their term of operation and are then replaced by the provincial agreements which will become binding upon employers, trade unions and employees in the trades or crafts covered by the provincial agreements.

Section 133. The section provides that a provincial agreement shall be the only agreement between employers and a designated trade or craft and any agreement or arrangement other than a provincial agreement shall be null and void.

The section further provides that all provincial agreements shall expire at the same time, April 30th, and shall be for a period of two years.

Section 134. The section sets out who is bound by a provincial agreement.

Section 135. The Ontario Labour Relations Board is empowered to determine whether work performed by employees is within the industrial, commercial and institutional sector of the construction industry.

Section 136. The section provides that an employee and an employer bargaining agency shall act in good faith with their members and the employers or unions they represent.

Section 137. The section provides that a co-ordinating agency of employer bargaining agencies may be designated and the constitution, etc., thereof, regulated by regulations made by the Lieutenant Governor in Council.

Section 138. Self-explanatory.

Section 139. Self-explanatory.

Section 140. Self-explanatory.

An Act to amend The Labour Relations Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Clauses *e*, *h* and *n* of subsection 1 of section 1 of *The Labour Relations Act*, being chapter 232 of the Revised Statutes of Ontario, 1970, are repealed and the following substituted therefor: s. 1(1)(*e, h, n*)
re-enacted

(*e*) “collective agreement” means an agreement in writing between an employer or an employers’ organization, on the one hand, and a trade union that, or a council of trade unions that, represents employees of the employer or employees of members of the employers’ organization, on the other hand, containing provisions respecting terms or conditions of employment or the rights, privileges or duties of the employer, the employers’ organization, the trade union or the employees, and includes a provincial agreement;

(*h*) “employers’ organization” means an organization of employers formed for purposes that include the regulation of relations between employers and employees and includes an accredited employers’ organization and a designated or accredited employer bargaining agency;

(*n*) “trade union” means an organization of employees formed for purposes that include the regulation of relations between employees and employers and includes a provincial, national, or international trade union, a certified council of trade unions and a designated or certified employee bargaining agency.

s. 112a(1),
amended

2. Subsection 1 of section 112a of the said Act, as enacted by the Statutes of Ontario, 1975, chapter 76, section 30, is amended by striking out "either" in the third line and inserting in lieu thereof "a".

ss. 125-140,
enacted

3. The said Act is amended by adding thereto the following sections:

PROVINCE-WIDE BARGAINING

Interpre-
tation

125. In this section and in sections 126 to 140,



- (a) "affiliated bargaining agent" means a bargaining agent that, according to established trade union practice in the construction industry, represents employees who commonly bargain separately and apart from other employees and is subordinate or directly related to, or is, a provincial, national or international trade union, and includes an employee bargaining agency;
- (b) "bargaining", except when used in reference to an affiliated bargaining agent, means province-wide, multi-employer, bargaining in the industrial, commercial and institutional sector of the construction industry referred to in clause *e* of section 106;
- (c) "co-ordinating agency" means an organization of employer bargaining agencies formed for purposes that include the co-ordination of bargaining and designated in the regulations;
- (d) "employee bargaining agency" means an organization of affiliated bargaining agents that are subordinate or directly related to the same provincial, national or international trade union, and that may include the parent or related provincial, national or international trade union, formed for purposes that include the representation of affiliated bargaining agents in bargaining and which may be a single provincial, national or international trade union;
- (e) "employer bargaining agency" means an employers' organization or group of employers' organizations formed for purposes that include the representation of employers in bargaining;
- (f) "provincial agreement" means an agreement in writing covering the whole of the Province of Ontario between a designated or accredited em-

ployer bargaining agency that represents employers, on the one hand, and a designated or certified employee bargaining agency that represents affiliated bargaining agents, on the other hand, containing provisions respecting terms or conditions of employment or the rights, privileges or duties of the employer bargaining agency, the employers represented by the employer bargaining agency and for whose employees the affiliated bargaining agents hold bargaining rights, the affiliated bargaining agents represented by the employee bargaining agency, or the employees represented by the affiliated bargaining agents and employed in the industrial, commercial and institutional sector of the construction industry referred to in clause *e* of section 106.

126. Where there is conflict between any provision in sections 127 to 140 and any provision in sections 5 to 49 and 54 to 124, the provisions in sections 127 to 140 prevail. Conflict

127.—(1) The Minister may, upon such terms and conditions as the Minister considers appropriate, Designation
by Minister

- (a) designate employee bargaining agencies to represent in bargaining provincial units of affiliated bargaining agents, and describe those provincial units;
- (b) notwithstanding an accreditation of an employers' organization as the bargaining agent of employers, designate employer bargaining agencies to represent in bargaining provincial units of employers for whose employees affiliated bargaining agents hold bargaining rights, and describe those provincial units.

 (2) Where affiliated bargaining agents that are subordinate or directly related to different provincial, national or international trade unions bargain as a council of trade unions with a single employer bargaining agency for a province-wide collective agreement, the Minister may exclude such bargaining relationships from the designations made under subsection 1, and subsection 2 of section 133 shall not apply to such exclusion. Exclusion
of certain
bargaining
relationships 

(3) Where a designation is not made by the Minister of an employee bargaining agency or an employer bargaining agency under subsection 1 within sixty days after this section comes into force, the Minister may convene a conference of trade unions, councils of trade unions, employers and employers' Minister
may convene
conference

organizations, as the case may be, for the purpose of obtaining recommendations with respect to the making of a designation.

Reference of
question

(4) The Minister may refer to the Board any question that arises concerning a designation, or any terms or conditions therein, and the Board shall report to the Minister its decision on the question.

Minister
may alter,
etc.,
designation

(5) Subject to sections 128 and 129, the Minister may alter, revoke or amend any designation from time to time and may make another designation.

R.S.O. 1970,
c. 410 does
not apply

(6) *The Regulations Act* does not apply to a designation made under subsection 1.

Application
to Board
by employee
bargaining
agency

128.—(1) During the period between the one hundred and twentieth and the one hundred and eightieth days prior to the termination of a provincial agreement, an employee bargaining agency, whether designated or not, may apply to the Board to be certified to represent in bargaining a provincial unit of affiliated bargaining agents.

Certification
by Board

(2) Where the Board is satisfied that a majority of the affiliated bargaining agents falling within the provincial unit is represented by the employee bargaining agency and that such majority of affiliated bargaining agents holds bargaining rights for a majority of employees that would be bound by a provincial agreement, the Board shall certify the employee bargaining agency.

Application
to Board
by employer
bargaining
agency

129.—(1) During the period between the one hundred and twentieth and the one hundred and eightieth days prior to the termination of a provincial agreement, an employer bargaining agency, whether designated or not, may apply to the Board to be accredited to represent in bargaining a provincial unit of employers for whose employees affiliated bargaining agents hold bargaining rights.

Accreditation
by Board

(2) Where the Board is satisfied that a majority of employers falling within the provincial unit is represented by the employer bargaining agency and that such majority of employers employ a majority of the employees for whom the affiliated bargaining agents hold bargaining rights, the Board shall accredit the employer bargaining agency.

Vesting of
rights,
duties and
obligations



130. Where an employee bargaining agency has been designated under section 127 or certified under section 128 to represent a provincial unit of affiliated bargaining agents, all rights, duties and obligations under this Act of the affiliated bargaining agents for which it bargains shall vest in the

employee bargaining agency, but only for the purpose of conducting bargaining and, subject to the ratification procedures of the employee bargaining agency, concluding a provincial agreement.

131. Where an employer bargaining agency has been ^{Idem} designated under section 127 or accredited under section 129 to represent a provincial unit of employers,

- (a) all rights, duties and obligations under this Act of employers for which it bargains shall vest in the employer bargaining agency, but only for the purpose of conducting bargaining and concluding a provincial agreement; and
- (b) an accreditation heretofore made under section 115 of an employers' organization as bargaining agent of the employers in the industrial, commercial and institutional sector of the construction industry referred to in clause *e* of section 106 represented or to be represented by the employer bargaining agency is null and void from the time of such designation under section 127 or accreditation under section 129.

132.—(1) Subject to subsection 2, any collective agree-^{Termination of collective agreement}ment in operation upon the coming into force of this section in respect of employees employed in the industrial, commercial and institutional sector of the construction industry referred to in clause *e* of section 106 and represented by affiliated bargaining agents, is enforceable by and binding on the parties thereto only for the remainder of the term of operation of the agreement, regardless of any provision respecting its renewal.

 (2) Notwithstanding subsection 1 of section 44, every ^{Idem} collective agreement in respect of employees employed in the industrial, commercial and institutional sector of the construction industry referred to in clause *e* of section 106 and represented by affiliated bargaining agents entered into after the 1st day of January, 1977 and before the 30th day of April, 1978 shall be deemed to expire not later than the 30th day of April, 1978, regardless of any provision respecting its term of operation or its renewal. 

(3) Where any collective agreement mentioned in subsection 1 ceases to operate, the affiliated bargaining agent, the employer and the employees for whom the affiliated bargaining agent holds bargaining rights shall be bound by the provincial agreement made between an employee bargaining agency representing the affiliated bargaining agent ^{Provincial agreement binding}

and the employer bargaining agency representing the employer.

Idem

(4) After the 30th day of April, 1978, where an affiliated bargaining agent obtains bargaining rights through certification or voluntary recognition in respect of employees employed in the industrial, commercial and institutional sector of the construction industry referred to in clause *e* of section 106, the employer, the affiliated bargaining agent, and the employees for whom the affiliated bargaining agent has obtained bargaining rights are bound by the provincial agreement made between an employee bargaining agency representing the affiliated bargaining agent and an employer bargaining agency representing a provincial unit of employers in which the employer would have been included.

When provincial agreement ceases to operate

(5) Notwithstanding subsection 1 of section 44, where, under the provisions of this section, an employer, affiliated bargaining agent or employees become bound by a provincial agreement after the agreement has commenced to operate, the agreement ceases to be binding on the employer, affiliated agent or employees in accordance with the terms thereof.

Agency shall make only one agreement

133.—(1) An employee bargaining agency and an employer bargaining agency shall make only one provincial agreement for each provincial unit that it represents.

No agreement other than provincial agreement

(2) On and after the 30th day of April, 1978 and subject to sections 127 and 132, no person, employee, trade union, council of trade unions, affiliated bargaining agent, employee bargaining agency, employer, employers' organization, group of employers' organizations or employer bargaining agency shall bargain for, attempt to bargain for, or conclude any collective agreement or other arrangement affecting employees represented by affiliated bargaining agents other than a provincial agreement as contemplated by subsection 1, and any collective agreement or other arrangement that does not comply with subsection 1 is null and void.

Expiry of provincial agreement

(3) Every provincial agreement shall provide for the expiry of the agreement on the 30th day of April calculated biennially from the 30th day of April, 1978.

Non-application of s. 43

134.—(1) Section 43 does not apply to a designated or accredited employer bargaining agency or a designated or certified employee bargaining agency.

Provincial agreement binding

(2) A provincial agreement is, subject to and for the purposes of this Act, binding upon the employer bargaining

agency, the employers represented by the employer bargaining agency but only in respect of those employees for whom the affiliated bargaining agents hold bargaining rights and who are employed in the industrial, commercial and institutional sector of the construction industry referred to in clause *e* of section 106, the employee bargaining agency, the affiliated bargaining agents represented by the employee bargaining agency, the employees represented by the affiliated bargaining agents and employed in such sector, and upon such employers, affiliated bargaining agents and employees as may be subsequently bound by the said agreement.

(3) Any employee bargaining agency, affiliated bargaining agent, employer bargaining agency and employer bound by a provincial agreement shall be considered to be a party for the purposes of section 112*a*. Parties

135. The Board shall, upon the application of a trade union, a council of trade unions, or an employer or employers' organization, determine any question that arises as to whether work performed or to be performed by employees is within the industrial, commercial and institutional sector of the construction industry referred to in clause *e* of section 106. Power of Board

136.—(1) A designated or certified employee bargaining agency shall not act in a manner that is arbitrary, discriminatory or in bad faith in the representation of the affiliated bargaining agents in the provincial unit of affiliated bargaining agents for which it bargains, whether members of the designated or certified employee bargaining agency or not and in the representation of employees, whether members of an affiliated bargaining agent or not. Bargaining agency not to act in bad faith, etc.

(2) A designated or accredited employer bargaining agency shall not act in a manner that is arbitrary, discriminatory or in bad faith in the representation of any of the employers in the provincial unit of employers for which it bargains, whether members of the designated or accredited employer bargaining agency or not. Idem

137. For the purpose of encouraging the co-ordination of bargaining, the Lieutenant Governor in Council may make regulations, Regulations

(a) designating a co-ordinating agency of employer bargaining agencies where such co-ordinating agency adequately represents the employer bargaining agencies;

(b) establishing the constitution of a co-ordinating agency to provide for,

- (i) the objects of the co-ordinating agency,
- (ii) the appointment of a board of directors,
- (iii) the fees to be paid by its members,
- (iv) the duties, responsibilities and privileges of members, and
- (v) other matters necessary for the operation of the co-ordinating agency.

Constitution
to be
complied
with

138. A co-ordinating agency and its members shall comply with the provisions of its constitution.

Membership
in co-
ordinating
agency

139. Every employer bargaining agency shall be a member of the co-ordinating agency designated in the regulations to co-ordinate bargaining for employer bargaining agencies and shall pay the fees set out in the constitution of that co-ordinating agency.

Exercise of
bargaining
rights

140. No co-ordinating agency shall exercise, or purport to exercise, the bargaining rights held by an employer bargaining agency.

Commence-
ment

4. This Act comes into force on the day it receives Royal Assent.

Short title

5. The short title of this Act is *The Labour Relations Amendment Act, 1977*.

An Act to amend
The Labour Relations Act

1st Reading

June 27th, 1977

2nd Reading

July 11th, 1977

3rd Reading

THE HON. B. STEPHENSON
Minister of Labour

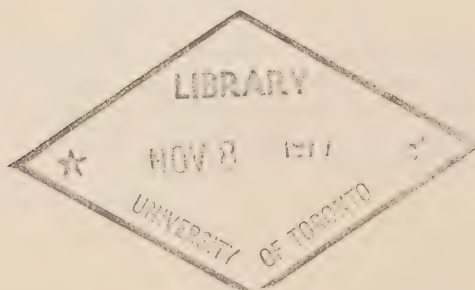
*(Reprinted as amended by the
Resources Development Committee)*

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BILL 22

1ST SESSION, 31ST LEGISLATURE, ONTARIO
26 ELIZABETH II, 1977

An Act to amend The Labour Relations Act

THE HON. B. STEPHENSON
Minister of Labour



An Act to amend The Labour Relations Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Clauses *e*, *h* and *n* of subsection 1 of section 1 of *The Labour Relations Act*, being chapter 232 of the Revised Statutes of Ontario, 1970, are repealed and the following substituted therefor: s. 1(1)(*e, h, n*)
re-enacted

(*e*) “collective agreement” means an agreement in writing between an employer or an employers’ organization, on the one hand, and a trade union that, or a council of trade unions that, represents employees of the employer or employees of members of the employers’ organization, on the other hand, containing provisions respecting terms or conditions of employment or the rights, privileges or duties of the employer, the employers’ organization, the trade union or the employees, and includes a provincial agreement;

(*h*) “employers’ organization” means an organization of employers formed for purposes that include the regulation of relations between employers and employees and includes an accredited employers’ organization and a designated or accredited employer bargaining agency;

(*n*) “trade union” means an organization of employees formed for purposes that include the regulation of relations between employees and employers and includes a provincial, national, or international trade union, a certified council of trade unions and a designated or certified employee bargaining agency.

s. 112a(1),
amended

2. Subsection 1 of section 112a of the said Act, as enacted by the Statutes of Ontario, 1975, chapter 76, section 30, is amended by striking out "either" in the third line and inserting in lieu thereof "a".

ss. 125-136,
enacted

3. The said Act is amended by adding thereto the following sections:

PROVINCE-WIDE BARGAINING

Interpre-
tation

125. In this section and in sections 126 to 136,

- (a) "affiliated bargaining agent" means a bargaining agent that, according to established trade union practice in the construction industry, represents employees who commonly bargain separately and apart from other employees and is subordinate or directly related to, or is, a provincial, national or international trade union, and includes an employee bargaining agency;
- (b) "bargaining", except when used in reference to an affiliated bargaining agent, means province-wide, multi-employer, bargaining in the industrial, commercial and institutional sector of the construction industry referred to in clause *e* of section 106;
- (c) "employee bargaining agency" means an organization of affiliated bargaining agents that are subordinate or directly related to the same provincial, national or international trade union, and that may include the parent or related provincial, national or international trade union, formed for purposes that include the representation of affiliated bargaining agents in bargaining and which may be a single provincial, national or international trade union;
- (d) "employer bargaining agency" means an employers' organization or group of employers' organizations formed for purposes that include the representation of employers in bargaining;
- (e) "provincial agreement" means an agreement in writing covering the whole of the Province of Ontario between a designated or accredited em-

ployer bargaining agency that represents employers, on the one hand, and a designated or certified employee bargaining agency that represents affiliated bargaining agents, on the other hand, containing provisions respecting terms or conditions of employment or the rights, privileges or duties of the employer bargaining agency, the employers represented by the employer bargaining agency and for whose employees the affiliated bargaining agents hold bargaining rights, the affiliated bargaining agents represented by the employee bargaining agency, or the employees represented by the affiliated bargaining agents and employed in the industrial, commercial and institutional sector of the construction industry referred to in clause *e* of section 106.

126. Where there is conflict between any provision in sections 127 to 136 and any provision in sections 5 to 49 and 54 to 124, the provisions in sections 127 to 136 prevail. Conflict

127.—(1) The Minister may, upon such terms and conditions as the Minister considers appropriate, Designation
by Minister

- (a) designate employee bargaining agencies to represent in bargaining provincial units of affiliated bargaining agents, and describe those provincial units;
- (b) notwithstanding an accreditation of an employers' organization as the bargaining agent of employers, designate employer bargaining agencies to represent in bargaining provincial units of employers for whose employees affiliated bargaining agents hold bargaining rights, and describe those provincial units.

(2) Where affiliated bargaining agents that are subordinate or directly related to different provincial, national or international trade unions bargain as a council of trade unions with a single employer bargaining agency for a province-wide collective agreement, the Minister may exclude such bargaining relationships from the designations made under subsection 1, and subsection 2 of section 133 shall not apply to such exclusion. Exclusion
of certain
bargaining
relationships

(3) Where a designation is not made by the Minister of an employee bargaining agency or an employer bargaining agency under subsection 1 within sixty days after this section comes into force, the Minister may convene a conference of trade unions, councils of trade unions, employers and employers' Minister
may convene
conference

organizations, as the case may be, for the purpose of obtaining recommendations with respect to the making of a designation.

Reference of
question

(4) The Minister may refer to the Board any question that arises concerning a designation, or any terms or conditions therein, and the Board shall report to the Minister its decision on the question.

Minister
may alter,
etc.,
designation

(5) Subject to sections 128 and 129, the Minister may alter, revoke or amend any designation from time to time and may make another designation.

R.S.O. 1970,
c. 410 does
not apply

(6) *The Regulations Act* does not apply to a designation made under subsection 1.

Application
to Board
by employee
bargaining
agency

128.—(1) During the period between the one hundred and twentieth and the one hundred and eightieth days prior to the termination of a provincial agreement, an employee bargaining agency, whether designated or not, may apply to the Board to be certified to represent in bargaining a provincial unit of affiliated bargaining agents.

Certification
by Board

(2) Where the Board is satisfied that a majority of the affiliated bargaining agents falling within the provincial unit is represented by the employee bargaining agency and that such majority of affiliated bargaining agents holds bargaining rights for a majority of employees that would be bound by a provincial agreement, the Board shall certify the employee bargaining agency.

Application
to Board
by employer
bargaining
agency

129.—(1) During the period between the one hundred and twentieth and the one hundred and eightieth days prior to the termination of a provincial agreement, an employer bargaining agency, whether designated or not, may apply to the Board to be accredited to represent in bargaining a provincial unit of employers for whose employees affiliated bargaining agents hold bargaining rights.

Accreditation
by Board

(2) Where the Board is satisfied that a majority of employers falling within the provincial unit is represented by the employer bargaining agency and that such majority of employers employ a majority of the employees for whom the affiliated bargaining agents hold bargaining rights, the Board shall accredit the employer bargaining agency.

Vesting of
rights,
duties and
obligations

130. Where an employee bargaining agency has been designated under section 127 or certified under section 128 to represent a provincial unit of affiliated bargaining agents, all rights, duties and obligations under this Act of the affiliated bargaining agents for which it bargains shall vest in the

employee bargaining agency, but only for the purpose of conducting bargaining and, subject to the ratification procedures of the employee bargaining agency, concluding a provincial agreement.

131. Where an employer bargaining agency has been ^{Idem} designated under section 127 or accredited under section 129 to represent a provincial unit of employers,

- (a) all rights, duties and obligations under this Act of employers for which it bargains shall vest in the employer bargaining agency, but only for the purpose of conducting bargaining and concluding a provincial agreement; and
- (b) an accreditation heretofore made under section 115 of an employers' organization as bargaining agent of the employers in the industrial, commercial and institutional sector of the construction industry referred to in clause *e* of section 106 represented or to be represented by the employer bargaining agency is null and void from the time of such designation under section 127 or accreditation under section 129.

132.—(1) Subject to subsection 2, any collective agreement in operation upon the coming into force of this section in respect of employees employed in the industrial, commercial and institutional sector of the construction industry referred to in clause *e* of section 106 and represented by affiliated bargaining agents, is enforceable by and binding on the parties thereto only for the remainder of the term of operation of the agreement, regardless of any provision respecting its renewal. ^{Termination of collective agreement}

(2) Notwithstanding subsection 1 of section 44, every ^{Idem} collective agreement in respect of employees employed in the industrial, commercial and institutional sector of the construction industry referred to in clause *e* of section 106 and represented by affiliated bargaining agents entered into after the 1st day of January, 1977 and before the 30th day of April, 1978 shall be deemed to expire not later than the 30th day of April, 1978, regardless of any provision respecting its term of operation or its renewal.

(3) Where any collective agreement mentioned in subsection 1 ceases to operate, the affiliated bargaining agent, the employer and the employees for whom the affiliated bargaining agent holds bargaining rights shall be bound by the provincial agreement made between an employee bargaining agency representing the affiliated bargaining agent ^{Provincial agreement binding}

and the employer bargaining agency representing the employer.

Idem

(4) After the 30th day of April, 1978, where an affiliated bargaining agent obtains bargaining rights through certification or voluntary recognition in respect of employees employed in the industrial, commercial and institutional sector of the construction industry referred to in clause *e* of section 106, the employer, the affiliated bargaining agent, and the employees for whom the affiliated bargaining agent has obtained bargaining rights are bound by the provincial agreement made between an employee bargaining agency representing the affiliated bargaining agent and an employer bargaining agency representing a provincial unit of employers in which the employer would have been included.

When provincial agreement ceases to operate

(5) Notwithstanding subsection 1 of section 44, where, under the provisions of this section, an employer, affiliated bargaining agent or employees become bound by a provincial agreement after the agreement has commenced to operate, the agreement ceases to be binding on the employer, affiliated agent or employees in accordance with the terms thereof.

Agency shall make only one agreement

133.—(1) An employee bargaining agency and an employer bargaining agency shall make only one provincial agreement for each provincial unit that it represents.

No agreement other than provincial agreement

(2) On and after the 30th day of April, 1978 and subject to sections 127 and 132, no person, employee, trade union, council of trade unions, affiliated bargaining agent, employee bargaining agency, employer, employers' organization, group of employers' organizations or employer bargaining agency shall bargain for, attempt to bargain for, or conclude any collective agreement or other arrangement affecting employees represented by affiliated bargaining agents other than a provincial agreement as contemplated by subsection 1, and any collective agreement or other arrangement that does not comply with subsection 1 is null and void.

Expiry of provincial agreement

(3) Every provincial agreement shall provide for the expiry of the agreement on the 30th day of April calculated biennially from the 30th day of April, 1978.

Non-application of s. 43

134.—(1) Section 43 does not apply to a designated or accredited employer bargaining agency or a designated or certified employee bargaining agency.

Provincial agreement binding

(2) A provincial agreement is, subject to and for the purposes of this Act, binding upon the employer bargaining

agency, the employers represented by the employer bargaining agency but only in respect of those employees for whom the affiliated bargaining agents hold bargaining rights and who are employed in the industrial, commercial and institutional sector of the construction industry referred to in clause *e* of section 106, the employee bargaining agency, the affiliated bargaining agents represented by the employee bargaining agency, the employees represented by the affiliated bargaining agents and employed in such sector, and upon such employers, affiliated bargaining agents and employees as may be subsequently bound by the said agreement.

(3) Any employee bargaining agency, affiliated bargaining agent, employer bargaining agency and employer bound by a provincial agreement shall be considered to be a party for the purposes of section 112a. ^{Parties}

135. The Board shall, upon the application of a trade union, a council of trade unions, or an employer or employers' organization, determine any question that arises as to whether work performed or to be performed by employees is within the industrial, commercial and institutional sector of the construction industry referred to in clause *e* of section 106. ^{Power of Board}

136.—(1) A designated or certified employee bargaining agency shall not act in a manner that is arbitrary, discriminatory or in bad faith in the representation of the affiliated bargaining agents in the provincial unit of affiliated bargaining agents for which it bargains, whether members of the designated or certified employee bargaining agency or not and in the representation of employees, whether members of an affiliated bargaining agent or not. ^{Bargaining agency not to act in bad faith, etc.}

(2) A designated or accredited employer bargaining agency shall not act in a manner that is arbitrary, discriminatory or in bad faith in the representation of any of the employers in the provincial unit of employers for which it bargains, whether members of the designated or accredited employer bargaining agency or not. ^{Idem}

4. This Act comes into force on the day it receives Royal Assent. ^{Commencement}

5. The short title of this Act is *The Labour Relations Amendment Act, 1977*. ^{Short title}

An Act to amend
The Labour Relations Act

1st Reading

June 27th, 1977

2nd Reading

July 11th, 1977

3rd Reading

October 25th, 1977

THE HON. B. STEPHENSON
Minister of Labour

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